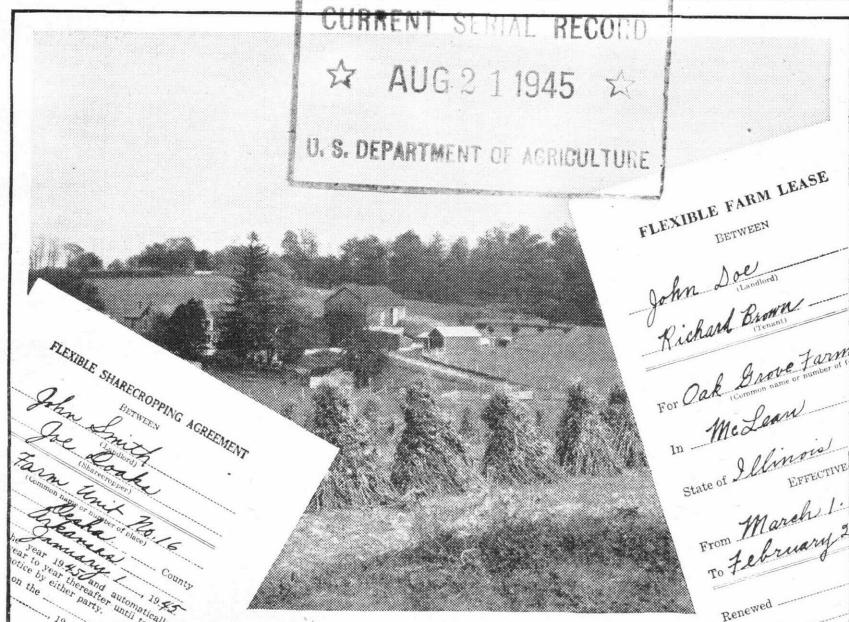
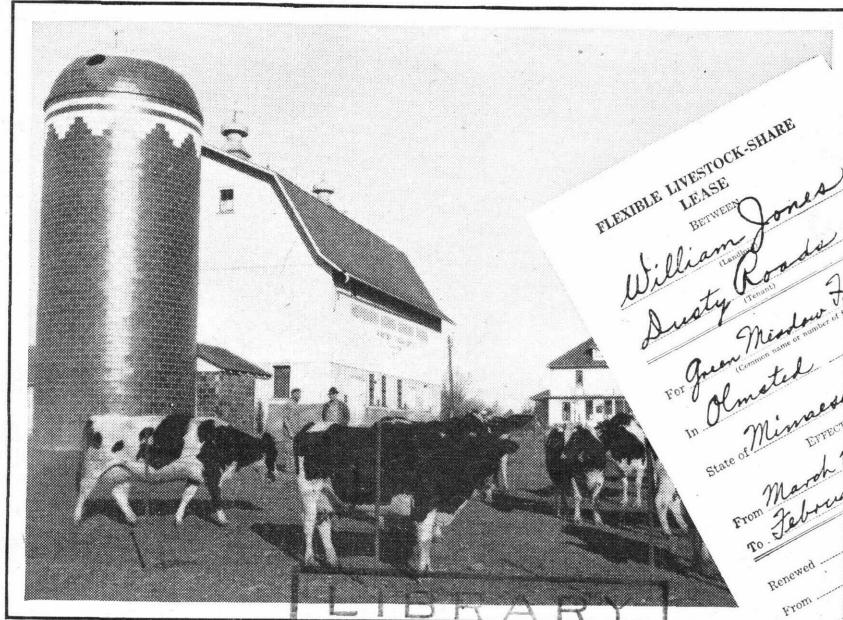


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BETTER FARM LEASES



FARMERS' BULLETIN NO. 1969
U. S. DEPARTMENT OF AGRICULTURE



YOUR FARM LEASE—WHAT DO YOU EXPECT IT TO DO?

Do you need it to serve as a record of your agreement?

Do you want it to provide for long-time occupancy so that a good system of farming can be developed?

Can long-time occupancy be assured best by a long-term agreement, or by a lease that continues automatically from year to year unless advance notice is given by either party?

Should it provide for a fair division of farm income?

Do you want it to encourage development and improvement of the buildings and fences and conservation of the land?

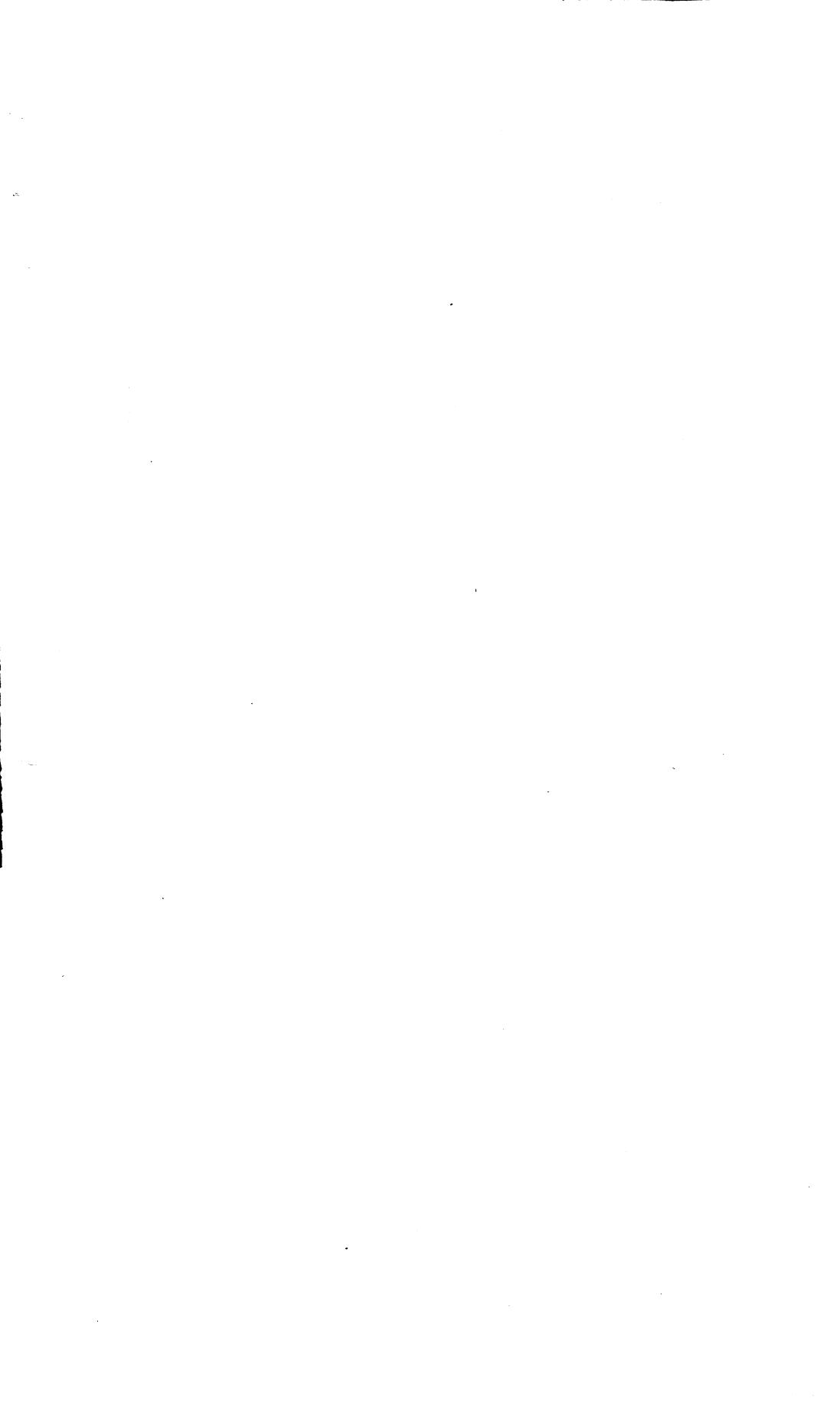
Can this be accomplished best by permitting removal of improvements not attached to the land, or by specifying payments for the value of unexhausted improvements when the agreement is terminated?

Do you want it to encourage efficient production on the farm by providing for a well-balanced system of farming?

Do you want it to set forth clearly the responsibilities of both parties and to provide for arbitration should honest differences of opinion arise?

Should it state clearly the procedure to be followed when the agreement ends?

These questions confront landlords and tenants whenever a lease is drawn up. This bulletin discusses these questions, as well as many others, and should help you to answer them. It supersedes Farmers' Bulletin No. 1164. Better farm leases may mean improved tenant farming, more production, and higher incomes for both landlords and tenants.



BETTER FARM LEASES

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IMPORTANCE OF FARM LEASES

WAR HAS BROUGHT about great changes in American agriculture. Shifting from war to peace will involve further adjustments. To fit these changed conditions numerous farm-lease agreements will need to be revised and new leases will be made. After the war many men who left farms to serve with the armed forces will want to begin farming. Many war-employed industrial workers now plan, if they lose their jobs, to return to farms. Some of these prospective farmers may want to buy land, but because prices are high in some sections of the country many persons may prefer at first to rent land rather than to buy farms at inflated prices. On the other hand, thousands of individuals, who for patriotic reasons have continued to farm, will want to stop work when the war ends and turn over their farming to younger men. All of these changes will create a need for many new leases.

Besides the tenure problems that will be created by adjusting agriculture from war to peace, there are other reasons why farm leases are so important. Almost half of the 6 million farmers in the United States now rent some of the land they work. About 4 out of 5 of them rent all of their land, and one-fifth rent a part of the land in their farms. So long as practically every other farmer in the Nation rents land, the importance of farm leases cannot be overemphasized. As a great majority of leases are drawn for only 1 year, probably more than 2 million lease agreements are made or renewed each year. These short-term agreements greatly affect the welfare of tenant farmers, landlords, the land, and rural communities.

It is too much to expect that desirable landlord-tenant relationships can generally be established merely by using an improved farm-lease contract. But since the rental agreement is basic to the relationship between landlord and tenant, a careful consideration of its provisions will have much to do with promoting harmony, mutual understanding, and good farming.

Throughout the country the terms of farm leases vary with local custom, differences in types of farming, and other conditions. It is impossible in a single bulletin to give detailed information that

will apply to all of these requirements. Certain general principles, however, are applicable to all rental situations. This bulletin outlines and, in general terms, explains some of these principles. They should be considered by both landlord and tenant in making a new lease agreement. Following the text are two aids for landlords and tenants in developing a satisfactory lease contract. One is a check list of points that may need to be discussed by the contracting parties to assure them that some essential items will not be overlooked. The other is a sample lease form—the Flexible Livestock-Share Lease prepared by the Department of Agriculture—to illustrate the general form and content of a lease.

PRINCIPAL KINDS OF LEASES

The type of farming, the tenant's training and experience, and the financial position of both landlord and tenant should largely decide the kind of lease used.

1. Farm leases may be classified according to the kind of rent paid, the length of the term, and whether the lease is written or oral.

The most common classification of farm leases is based on the kind of rent payable—*cash*, *standing*, or *share*. It is well to remember that, for special purposes, other designations are often used. For example, leases are frequently classified on the basis of the length of time they are to be in effect: *Annual* leases are made for a period of 12 months; *long-term* leases cover a period of 5, 10, or 15 years; *year-to-year* leases continue from one year to another in the absence of a definite termination notice before the end of the lease year. Leases may be classified as *written* if the agreement is in writing and signed by the two parties, or as *oral* if the agreement is not set down in writing.

Cash rent is usually stated in the lease as a definite number of dollars. In recent years, some cash leases have provided for a base rent in cash, which increases or decreases according to a fixed sched-

Do you know the laws of your State that govern your farm-lease contract? ule depending upon production conditions and prices of farm products. These leases are usually called *sliding-scale agreements* or *flexible-payment leases*. *Standing-rent* leases specify that the rent agreed upon is a given quantity of one or more of the products of the farm. *Share-rent* leases stipulate the payment of a specified proportion of certain products. If the produce shared by the landlord and tenant is limited entirely to crops, the agreement is called a *crop-share* lease. Leases adapted for sharing livestock and livestock products are termed *livestock-share* leases. Some share leases, called *share-cash* leases, call for the payment of cash rent for specified items in addition to sharing the crops or livestock. Special types of share leases such as *manager-operator agreements* are being used in some Midwestern States, notably Illinois. Under this system of renting, the landlord leases the fully equipped farm to the manager. A new type of contract gaining rapidly in popularity is the *father-son agreement*.

These are the most common kinds of rental arrangements, but it is possible to work out any combination of cash-, standing-, or share-

rent payment that is satisfactory to both parties. Each lease (contract, agreement, or arrangement) is an individual understanding and must be worked out to fit the precise needs of the particular landlord and tenant on the specific farm to be rented.

2. Each of the several methods of renting land has its own peculiar characteristics and applications.

In *cash renting* the landlord usually furnishes the real estate and pays the taxes and the money costs of upkeep. The tenant usually supplies working capital, bears all operating expenses, and receives all the income above the amount fixed as rent. In leasing for a fixed amount of cash rent the landlord assumes none of the risks of farm operation, and usually undertakes no responsibility for management during the leasing period.

Obviously, this system may prove advantageous to a landlord (1) who cannot give much attention to the management of the farm, (2) who prefers a definite income from the farm, or (3) who does not want to share in certain current operating expenses. Cash rent may be preferred by the tenant (1) who has enough capital and experience to operate without assistance from the landlord, (2) who wants considerable independence in running the farm, or (3) who does not wish to share with another the extra profits of good management.

During the decline in prices immediately following the first World War, many cash-renting tenants were hard-pressed to meet fixed cash rentals that had been set when prices were high. Early in the 1930's a similar situation existed. A share lease is a ready solution to the problems likely to arise from a fixed cash rent, but it is not so well adapted to many rental situations as a cash lease. Wherever that is the case and the landlord is willing to accept part of the risk of fluctuating prices and crop failure, a *sliding-scale* or variable-payment rental can be used. Under this method cash rentals are based upon prices received for products sold during the year and (or) the quantity of production that should have been obtained under prevailing growing conditions.

Sliding-scale agreements are adapted to the cash-payment part of share-cash leases as well as to straight cash leases. The amount of cash rent payable may be varied on the basis either of prices or production conditions, or both. One crop or several crops may be used in the calculation, and livestock enterprises may or may not be included. Agreements of this kind help to protect the tenant when prices fall, and are advantageous to the landlord when prices rise and production conditions are favorable. This method of calculating cash rent may help greatly in making possible a long and harmonious landlord-tenant relationship.

Standing rent, sometimes called "lint rent" in cotton tenancy, is a distinct form based on a definite quantity of produce. For the use of the farm, the tenant agrees to pay so many bales of ginned cotton, a given number of pounds of tobacco, or so many bushels of grain. Standing-rent leases have many of the same advantages of cash leases. The landlord gets the same quantity of produce no matter how large or how small the crop may be. Thus, he is practically freed from most of the risks of bad seasons and from the responsi-

bility for management of the farm. But, unlike cash rent, under standing rent the dollar value of the products received by the landlord is subject to variation caused by changes in agricultural prices and in the quality of the crop.

In *share renting* the landlord receives a share of the crops and, sometimes, part of the livestock products and livestock increases as well. Unlike agreements providing for the payment of cash or standing rent, under the share-rent contract the landlord

**The law of all
States permits
the landlord and
tenant to agree
on any kind of
rent mentioned
in this bulletin.**

generally pays some of the expenses of production. This system of renting is popular among landlords because they have greater control over the farm than is customary with the cash- or standing-rent systems. Another reason for renting on shares is that every year the landlord can expect to receive an amount of rent directly proportional to production from the

farm and to agricultural prices for the year. The tenant, too, may prefer a share lease, because the landlord usually takes more interest in the farm and gives more freely of his experience and funds toward improvement and management than he does in dealing with a cash tenant. Tenants who have accumulated only a little capital, who may lack experience, or who are not prepared to bear all the risks of production failures frequently prefer share renting.

Stock-share renting is an arrangement by which the landlord and tenant usually share the ownership of all or part of the productive livestock as well as many of the expenses and receipts in the same proportion. Advantages and disadvantages of the system for each party are, in general, similar to those previously described. In addition, stock-share renting fosters diversified farming and encourages on-the-farm utilization of feedable grains and other crops. It usually results in a close association of the landlord with the business and often resembles a business partnership.

Another and more common form of share renting is the *crop-share* system. Under it the major crops are generally divided between the landlord and tenant, and the income from some of the crops and from the livestock is kept by the tenant. Many expenses of producing the shared crops are divided by the two parties, but the tenant pays the entire cost of producing whatever livestock is kept. Crop-share renting has characteristics of both cash- and livestock-share plans and so belongs somewhere between these two systems. For example, the landlord assumes part of the risk of crop failure and fluctuations in prices of crops, but he assumes no risk in regard to livestock, if any is produced. His interest in operating and improving the farm relates chiefly to soil productivity, and he has little direct interest in buildings, fences, and pasture for livestock. Landlord guidance and supervision under the crop-share system are more common than under cash renting but not so complete as under livestock-share renting.

A modified form of share renting is the *share-cash* system. Usually this consists of sharing the more important crops, while the tenant pays cash rent for pasture, buildings, and other items, and owns all the livestock. Such a method of renting is often superior to the crop-share system. This is true because the landlord receives some cash

rent and is more willing for the tenant to increase the acreage in pasture and to expand livestock than would be the case if the landlord received only a share of the crops and nothing for the use of pasture.

One form of share renting is commonly known as *sharecropping*, or as the "cropper system" in the Cotton Belt and in tobacco-producing areas.

Superficially, it resembles the system of crop-share renting, in that the cropper pays the landlord a share of the crop as rent or receives from the landlord a share of the crop as wages. Except for their own labor, croppers generally make little direct contribution to the enterprise, and they are subject to close supervision by the landlord. Frequently croppers are dependent on their landlords not only for

the capital necessary to plant the crop but also for living expenses while the crop is being produced. There is a leaning in some parts of the South toward a system of crop sharing under which the farmer provides some of the work stock, pays for the fertilizer, and receives a larger proportion of the crop.

Manager-operator agreements are adaptable to conditions where the landlord prefers to rent the farm, fully equipped, to a qualified and competent operator who may lack sufficient capital to operate the farm efficiently or who wants to be assured of a minimum fixed income. Usually the manager-operator is paid a specified wage—much like a hired farm laborer; in addition, he shares in the income from the farm. The manager-operator provides no equipment and generally pays none of the farm expenses except indirectly as they are deductible in computing the profits to be divided. His contributions to the farming business are his own labor, skill, and managerial ability. The landowner who employs a manager-operator often takes a keen interest in the farming. This type of share renting is used for well-equipped farms by owners who want to retire but who prefer to keep their investment in equipment and livestock and to retain control of their farms.

An increasing number of parents have been entering into *father-son agreements* with their sons and sons-in-law. These agreements have developed from the needs and wishes of the parties involved. The fathers, as they grow older, have wanted to have less responsibility for the farm work, while the sons have wanted recognition and a chance to get management experience. The father-son agreement gives the son tangible interests in the farm, and helps in the transfer of the home farm from one generation to another without breaking up a well-established family-farm unit. Father-son agreements are likely to be useful and satisfactory when (1) the son (or son-in-law) and his wife want to operate the farm, (2) the farm is large enough for two families (or additional land can be rented to meet this requirement), (3) harmonious, businesslike (not paternalistic) relationships can be established, and (4) separate dwellings for two families are available. Agreements of this kind range all the way from true partnerships to employer-employee arrangements. If the father is ready to retire, he and the young people may agree upon an outright landlord-tenant relationship with any kind of lease that fits his and their needs.

Laws governing tenancy relationships, share-cropper agreements, and partnerships are vastly different.

PURPOSE OF THE LEASE CONTRACT

The purpose of the farm-lease contract is to set forth plainly and completely the farm rental agreement between landlord and tenant.

1. The farm lease is essentially an arrangement by which the landlord agrees that the tenant shall have certain rights in the use of the farm for a specified length of time.

Under our system of land tenure, rights in the same farm may be divided among several parties. The Government maintains permanently certain rights—notably, the right to tax, the right to take for public purpose, and the power to police. The owner usually possesses all of the other rights unless some are transferred to other persons. For example, the owner may mortgage the land to a loan company or, while retaining title to the property, he may grant a lease to a tenant.

When an owner leases his land to another individual the relationship of landlord and tenant is established. The nature and extent of rights that the tenant acquires may vary widely to suit the particular landlord, the tenant, and the farm. The nature and scope of these rights should be clearly understood by both parties.

A tenant is chiefly interested in his rights, but he is also concerned with the rights held by others, or at least with the protection of his rights against others who may interfere with his use of the farm. He wants to know, for instance, whether there is a mortgage on the farm and how his interest in the property is to be safeguarded if the mortgagor-landlord becomes delinquent. He wants to be protected in the event the farm or a part of it is condemned for public use, as for war-emergency uses or for a public road. The tenant wants protection in case of tax delinquency. He wants to know how regulations under the police power—such as rural-zoning ordinances, conservation ordinances of soil conservation districts, and other Government programs that apply to rural land use and occupancy—will affect his tenure relationship.

On the other hand, the landlord is interested in any rights that the tenant may turn over to third parties. Both landlord and tenant are concerned with who will assume the rights and obligations in case either party should die. They are also directly concerned with the duties and responsibilities assumed by each under the terms of the contract.

2. The agreement should promote stable and secure occupancy, a fair division of the product, conservation and development of resources, efficient production, capable and effective management, and progressive community life.

The landlord and tenant should have clearly in mind the conditions they hope to create and the objectives they want to attain. It may appear on the surface that their interests are in conflict and that conditions favorable to one would be detrimental to the other. This is very rarely the case, particularly from the long-time viewpoint.

A good farm lease is more likely to result if the two contracting parties keep clearly in mind the objectives listed above than if the agreement is drawn up without these guideposts. For example, if the two parties are to set a fair rental rate, they will naturally be concerned with the productivity of the farm, the contributions of each party, the various costs of production, and prices of farm products. But, if the

landlord is interested merely in getting the highest rent obtainable and the tenant is striving to pay as little rent as possible, both persons will think more about "how much the traffic will bear" and about how the number of farms for rent in the county compares with the number of tenants who are looking for farms.

A tenant who pays excessive rent must "drive" the land too hard, which eventually means inefficient farming and worn-out soil. A fair division of income from the joint undertaking encourages conservation of land and efficiency in farming, particularly if the farm is of economic size.

In the case of an inexperienced tenant, one way to conserve the soil might be for the landlord to retain control over all farm operations. This degree of control, however, would not be necessary or required with a capable tenant, nor would he be interested in such an arrangement. To apply and maintain a successful soil and water conservation program, both landlord and tenant must actively participate and cooperate.

The tenant who aspires to develop into an efficient manager also usually wants to become an active citizen in his community. There is a direct relation between the good citizen-farmer and the opportunity and freedom that are his as a competent tenant farmer to exercise his abilities and make decisions. If the landlord overcontrols the tenant, in an attempt to attain and maintain a satisfactory conservation program, the tenant will probably lack the incentive to assume and carry out his share of the conservation arrangements. The building of a progressive rural community—with good schools and churches, active social and fraternal groups, and wide-awake farmer organizations—is largely founded on its able and self-respecting citizen-farmers who are entrusted with and faithful to the responsibilities that should be theirs and who share fairly in the income derived from the farms they operate.

3. A well-thought-through, complete, and equitable lease would go a long way toward establishing and maintaining a good working landlord-tenant relationship.

There is little opportunity for disagreements to arise while the provisions of a complete, equitable, and well-understood lease are carried out. At the time the agreement is made each item should be discussed. No provision should be included in the lease until a mutual understanding has been reached. If both parties think the lease is fair they usually are willing to cooperate in complying with its terms, and a harmonious working relationship is more likely to come about than if either party feels that the agreement is inequitable.

Even a carefully considered lease may not prevent trouble unless the two contracting parties have the proper attitude toward each other. At the outset each party should consider carefully not only the specific

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terms of the lease, but also the general desirability of the agreement as a whole. If either party is too critical or quarrelsome, or inclined to dispute minor details, the relationship is liable to be anything but satisfactory. If a spirit of criticism prevails, the specifications and safeguards in the contract will give only limited protection to the respective parties.

MINIMUM ESSENTIALS

To be enforceable a farm lease should contain certain specific details.

1. Minimum-essential requirements for a lease are that it answer the questions: (1) Who are the landlord and tenant? (2) What land and improvements are leased? (3) How long is the agreement to be effective? (4) How much rent is to be paid?

It is possible to make a valid lease by including only these four essentials. But a lease embodying only these points leaves so many important items undecided that misunderstandings and difficulties are

Landlord and tenant statutes of some States do not contain provisions relative to many essential features of a good lease. likely to arise. Landlords and tenants should include in their agreements clear answers to as many of the problems that will arise throughout the period of the lease as is reasonably possible. This means that such items as their respective contributions, the system of farming, and farm practices will need to be considered in detail. Talking over these items should not be hurried. Discussion may well take place at two or more times, with several days between. This will give both parties a chance to think over the points and to judge them more accurately.

In framing a farm lease it is important to name the respective parties. Once they are identified in the agreement it is customary to refer to them as "party of the first part" and "party of the second part," using the word "parties" where appropriate. To shorten and simplify the contract it may be well to define the meaning of these expressions at the beginning of the lease, and wherever possible to mention the parties simply as "the landlord" and "the tenant."

Every farm lease, whether cash or share, should indicate clearly what real estate is to be used by the tenant and what is to be reserved from his use. It is well to include, in the description, such items as the name of the farm, its location with respect to the section, township, and range (where rectangular surveys have been made), the name of the county and State, and the total acreage rented. Other property rented with the real estate should be briefly described. If some part of the farm or buildings is not rented, generally it is simpler to specify the few items reserved from use than to describe the many items that are leased. This implies that all the property not so specified in the lease is subject to use by the tenant. Restrictions may vary from farm to farm, as, for instance, in the use that the tenant may make of standing timber. The reservations may include such items as use of fruit, wood, standing timber, minerals (in the case of a long-term lease), fish and game, gravel beds, sand pits, certain rooms in the house, and parts of other buildings.

In the case of plantations or estates where it is the practice to rent principally the cropland to tenants, it may be desirable to state what use the tenant may make of buildings and land other than the cropland. Frequently the tenant is given free use of a house and a garden spot, pasturage for a few head of stock, and, where it is available, the privilege of getting firewood and fruit.

It is necessary to state clearly the period of time for which the lease is to continue. This period may be for 1 year, several years, or for 1 year with provision for renewal or for automatic continuation from year to year. Leases that assure long-time occupancy of the farm have many advantages.

Regardless of the kind of rent agreed upon, the amount to be paid or the proportionate share to be given should be specifically stated in the lease. It is also desirable to include a statement as to where, how, and when the rent is to be paid or the share products are to be divided. Generally, cash rent is paid in two or more installments, and part of the payment is made after some of the crops are harvested or some of the livestock is sold.

The lease should be dated the day it is completed. In general, the date is shown at the beginning of the lease, but placing it at the end is just as well.

2. Putting the lease in writing makes the agreement definite and has other important advantages.

A rental understanding reached between the landlord and tenant may be written out in a memorandum of agreement, or it may be left to the memory of the two parties. An oral lease may be just as valid

In many States the Statute of Frauds provides that, to be enforceable, agricultural leases for a term longer than a year must be in writing.

and legal as a written lease. A valid and legal tenancy relationship can even be established without discussion between the two parties. If one party occupies a piece of land and pays rent to the owner, the courts will hold that a tenancy relationship is implied from the action of the two parties. Many lease agreements are actually little more than implied understandings. This is frequently the case where tenants continue to occupy the same farm from year to year. The tenant may continue to farm the land

and to pay rent year after year, without talking over the arrangements with his landlord. But it stands to reason that to avoid misunderstandings the landlord-tenant relationship should be carefully defined.

All landlords and tenants should take the time to talk over in detail their proposed plans for operation of the farm and to put their understandings in writing. The advantages of a written agreement may be summarized briefly, as follows:

1. It will influence each party to consider carefully all details of the farm business.
2. It will relieve either party of depending upon his memory, and it will aid in determining whether a man is or is not keeping his word.
3. It will help to restrain a man who may be inclined to sharp practices from taking advantage of the other party.
4. It will furnish a basis for making such adjustments as may be necessary from time to time throughout the year, and from year to year.
5. It will aid in avoiding many irritations, misunderstandings, and quarrels.
6. It will alleviate, in case of later differences, reliance upon usual community practices and common-law regulations which may not be applicable to the farm or in accordance with the original intention of the two contracting parties.
7. It will assure that the heirs or assigns of either party will be protected against unreasonable or false claims from the other party to the contract.
8. It will, when combined with preceding agreements, serve as a partial history of the farming operations.

The farm-lease contract should be made to fit the specific farm and the particular situations of the landlord and tenant. To do this it may often be necessary to depart from customary practices and to work out new and untried provisions. This is particularly true where changes are to be made in the type of farming, the kinds of labor-saving equipment, or shares of expense and income.

A standard lease form, especially one developed locally, will be of help in providing legal terminology peculiar to the law of the State. However, such forms may need to be modified in order to include all the special conditions of a good farm lease adapted to the specific farm. Farmers can usually obtain standard printed lease forms from county agricultural agents, local Farm Security Administration supervisors, and State experiment stations or agricultural colleges.

3. Proper signatures and other details are necessary on a written lease to make its terms binding on both parties.

In order for the provisions of a written lease to be enforceable in the courts the agreement should be signed, preferably by both parties.

Certain legal formalities regarding the lease vary widely from State to State. It is usually unnecessary to record a lease contract, but doing so has the advantage of serving notice to third parties of the existence of the contract; but in most States the physical occupancy of the property by the tenant is considered to be notice to third parties of the occupier's rights in the farm.

4. A good lease is no substitute for a well-equipped, economic-sized farm and a reasonable landlord and a capable tenant.

A landlord should select a tenant with special regard to his personal qualities. Of these, capability as a farmer is basic, while honesty and a cooperative disposition are also highly important. Experience as a manager and efficiency as a producer are necessary characteristics of a good tenant, even though the landlord can devote considerable time to supervising the farming. The tenant should have, or be able to obtain, the necessary equipment and the capital to farm efficiently.

A tenant ought to consider both the landlord and the farm. The personal qualities of the landlord may have just as much influence as those of the tenant. Friction is unlikely if the landlord is completely honest, straightforward, good-natured, and agreeable. In a cash lease, the relationship between landlord and tenant may, by the preference of both parties, be quite impersonal, whereas in a stock-share lease the relationship is often so close that tolerance, good feeling, and the spirit of mutual cooperation are essential for success.

STABLE AND SECURE TENURE

Steady long-time occupancy is desirable to promote the development of sound long-time cropping plans and the building-up of productive herds and flocks.

1. Long-term farm leases, if they are adapted to the situation, promote stable and secure tenure.

Proper length of the lease period is one of the most important items to be considered by the landlord and tenant. The relative merits of

long-term leases should be weighed and discussed before a decision is reached as to the term for which the lease is to be drawn. From the standpoint of time, security of occupancy may not be the only thing desired; a chance to finish the work that has been started may be just as important. It should be remembered that long-term leases help the landlord and tenant to plan farming which, on a long-term basis, will lead to soil improvement and conservation. Moreover, it should be recognized that frequent moving is not

Laws in some States provide that agricultural leases for more than a given number of years—say 10 years—are not valid.
profitable for either landlord or tenant and usually interferes with the progress that can be made in developing good farming systems.

Where systems of farming demand long-time planning, long-term leases have definite advantages and are especially important when livestock systems of farming are adopted. If the tenant is a livestock farmer, it is often difficult and costly for him to find another farm with barns and equipment that will fit his needs. In turn, the landlord whose farm and buildings have been developed for a certain kind and number of livestock may have trouble locating a new tenant with the livestock, equipment, and managerial ability necessary for complete utilization of the farm. The answer to these problems may be a long-term lease.

Any rental agreement that requires the tenant to spend much on irremovable improvements may necessitate a relatively long lease. Or, if the tenant is expected to plant a considerable acreage in fruit or in perennial crops, long-term leases may be desirable. Similarly, when a contract calls for clearing land by the tenant, who in turn receives its use free or at a nominal rent, a lease lasting for several years may be necessary. Under such circumstances it may be best for the tenant to enter into a contract that allows him enough time to benefit from systematic farm planning and improvements involving capital and labor for which he will not get an immediate return.

But there are also certain problems to be considered which are connected with long-term leases. Difficulties may arise (1) from provisions for a fixed cash rent, (2) from the fact that landlord and tenant may know very little about each other, and (3) from the absence of an agreement to continue the lease for a succeeding term.

A frequent objection to long-term cash leases is that, as a result of changes in prices and production conditions, the rent stated in the contract may get out of line with the income from the farm. This shortcoming may be considerably overcome if the amount of cash rent charged in any one year is made to vary with the quantities of farm products grown on the farm and the prices at which they sell, as discussed in a later section.

However, the amount of rent on share-rented farms depends (within the limits of the farm's productivity) to a large extent on the tenant's efficiency in management. It is to be expected that a landlord may not want to enter into a long-term contract until he is sure of the tenant's ability. Then, too, because of the close landlord-tenant relationship usually found in share-farming, the personalities of both parties and their ability to work together influence the success of the enterprise. For these reasons it is sometimes advisable for the land-

lord and tenant to begin with a 1-year lease and to enter into a long-term agreement only after they have become thoroughly acquainted and see clearly that the arrangements have been satisfactory to both.

Unless long-term leases contain provisions for notice of termination, they expire automatically at the end of the stated term. From the standpoint of still greater stability with this kind of lease, a provision may well be included for automatic renewal after the term expires, unless written notice of termination is given by one party to the other several months before the lease period ends. If the lease does not provide for automatic renewal, the period for which the agreement was written must be kept in mind. For instance, at the end of the fourth year of a 5-year lease, with only 1 year remaining, provision for continuing should be made, so that during the fifth year the lease will offer more security of occupancy than a regular 1-year lease.

2. Long-term cancelable leases may insure reasonable stability of occupancy in situations where long-term noncancelable leases are not adaptable.

The situations of many landlords and tenants may be such that definite long-term commitments cannot be made. They may not know how long they will want the agreement to last. Financial institutions, for example, frequently hold land, acquired through foreclosure or forfeiture, only until they can sell it; hence they do not know how long the land will be for rent. A tenant may want to buy a farm as soon as he has accumulated enough money or as soon as he has an expected inheritance, and so he may not want to make a long-time lease.

Long-term cancelable leases can be drawn to fit these situations and still give a high degree of stability to the agreement. They may be for a period of 5, or 10, or more years and contain a provision which, under certain specified circumstances, allows for cancellation by either party at the end of any lease year when enough notice has been given. Of course, at the time the lease is made the two parties should agree upon the specific situations or circumstances under which the cancellation provision could be used.

3. Added security may be had by providing that either party will compensate the other whenever the leasing arrangement is terminated for any reasons except those specified.

"Security" for the tenant may imply something of a different nature from "security" for the landlord. For the tenant, security is directly tied up with his community relations, his ability to find another place to live, and, in fact, with his whole social status along with the purely financial considerations; whereas, the landlord's interest may be mainly in financial security as a business transaction.

Another way to encourage long-term occupancy and a feeling of security is to provide in the lease that, if either party terminates the agreement *without* good cause, he will compensate the other party for the loss incurred. The lease would need to contain a list of reasons that would constitute good cause for which either party could end the agreement without being responsible for compensating the other. Provision might well be made, also, that notice of termination even for good cause should be made 4 to 6 months before the end of the lease year; otherwise the lease would automatically continue for another year.

An agreement of this kind gives both parties the best possible assurance, short of an unbreakable agreement, of long-time and stable occupancy. It also assures the party who is inconvenienced by termination of the lease that his loss will be paid by the party who exercises the privilege of termination without good cause.

4. Leases that continue automatically from year to year in the absence of adequate notice of termination may furnish the desired degree of security in many cases.

Many of the advantages inherent in a long-term lease may be obtained under leases for short terms if they contain provisions for automatic renewal in the absence of adequate notice of termination. Under a lease specifying automatic renewal, the agreement remains in effect from year to year unless notice of termination effective at the end of the crop year is given in writing by one party to the other. The period of notice usually should be no less than 4 to 6 months

Iowa law provides that agricultural leases continue automatically from year to year unless notice of termination is given 4 months before the end of the lease year.

before the beginning of the next lease year. Such an agreement gives the tenant reasonable assurance that he can remain on the farm as long as both parties are satisfied and allows him to make more effective farm plans. Adjustments can be made in the lease, as the need arises, to permit a certain degree of flexibility. Having the date of notice for termination some time before the end of the lease year will benefit both landlord and tenant—the tenant will have more time to find a satisfactory farm and the landlord will have

a better chance to select a new tenant.

An annual lease necessitates a new agreement or renewal of the old one to assure the two parties that their operations will continue uninterruptedly for the next year. The same situation exists during

The old common-law rule provided that 6 months' notice was necessary to terminate a year-to-year farm lease.

the last year of a long-term lease—the contract will end without notice unless action is taken. It is necessary to safeguard against these difficulties. Under an automatically continuing lease, or one that provides for compensation for disturbance, the arrangements will continue for the next year in the absence of an adequate notice of termination. In either case the parties are not required to take any action to

continue the arrangement.

The length of the period for adequate notice of termination depends upon the particular circumstances surrounding the agreement. It is seldom that the period is too long—it is customarily much too short.

5. Both landlord and tenant will find it advantageous to make arrangements at an early date for next year's operations.

Leases that are made or renewed well before the end of the crop year leave more time for making future farming plans and add to security of occupancy. This is particularly important if the tenant is working under a long-time farming plan. It may be ruinous financially for him to have to move on short notice. This is also true in certain kinds of livestock farming. For example, suppose the tenant is a dairy farmer who sells whole milk. If he has to move to a farm where he has no market outlet, or if he cannot find a farm that is suited to his herds and flocks, his only alternative may be to sell off all or part of his livestock at the risk of a great loss. Likewise,

if the landlord has developed a specialized type of farming, it may be difficult for him to avoid a loss should the lease be abruptly terminated.

Lease-termination dates vary in different parts of the country. Usually the date is sometime between the harvest-and-sale of the most important crops and the beginning of preparations for next season's crops. In the Corn Belt the customary date for leases to begin and end is March 1, and in the Cotton Belt, January 1. It is probable that beginning the lease a month earlier than these dates would be advantageous to many landlords and tenants in these production areas. However, if the lease date is set too early on livestock farms, the tenant may have difficulty in moving his feed, for a quantity of silage or hay may be left when the lease ends. Many farmers plan their feeding program so that silage and hay are about used up when the pasture season begins.

Generally, the landlord and tenant should know, at least 4 to 6 months before the lease is to terminate, what they are going to do about the next year. An even longer period may be more appropriate, particularly where a large livestock operation or a highly specialized farming system is involved.

6. Both parties may be protected against injustices due to unforeseeable events, such as death and bankruptcy, by providing for permissive cancellation of the lease at the end of the crop year.

It is very important that, in the event of the death, incapacitation, or bankruptcy of either party to the lease, certain conditions and obligations of the contract extend to and be obligatory upon their heirs or successors. If the lease is for a long term, however, it should specify that, in the event of death or incapacitation of either party, the agreement can be canceled at the end of a crop year through written notice of termination by either party; where possible, this notice should be given at least 4 to 6 months before the end of the lease year.

This provision is desirable in the event of the landlord's death because the widow or heirs may wish to settle the estate, or the tenant may prefer not to rent from the person who takes the place of the original landlord. If the tenant should die, his family or heirs may be unable or unwilling to carry on the farming, or the landlord may not want to continue the contract with them. If either party to the agreement should become bankrupt it is probable that the other would want to terminate the lease. By providing for permissive cancellation due to these unforeseeable events, both parties will be protected from carrying on the agreement under such changed conditions.

EQUITABLE RENTAL RATES

An equitable division of farm income between landlord and tenant is the most difficult and the most important single aspect of a farm lease.

1. It is desirable to base rental rates upon the contribution of the two parties and the productivity of the particular farm rather than upon community custom.

Too many farm leases specify rental rates that conform to community custom without adequate regard to the respective contributions

of the two parties or to the productivity of the particular land and types of improvements. In a farm lease the landlord sells the tenant the restricted right to use the farm for farming purposes for a stated period. It is very important to determine as accurately as possible the correct value of this right. If the rent charged is too high, the tenant is likely to find farming so unprofitable that he cannot live up to the agreement. In such a case, he may exploit the soil in order to get more immediate profits, he may lower his level of living, or he may be forced to discontinue the agreement and leave the farm.

Both landlord and tenant make contributions to the business of production. Thus, each should expect to receive for his contributions what they are worth to the farming enterprise. When the total production of the farm, over a series of years, is not enough to pay the value of these contributions, the business must be regarded as unprofitable. Then some adjustments in size or method of operation are necessary if the landlord-tenant relationship is to continue.

As a matter of fact, however, the annual value of land may be considered a surplus above the other expenses of production. If some permanent change reduces the total average value of farm production, in the long run the rental value of the land must fall, provided costs stay the same, because less will remain after paying the cost of securing the other items used in production. On the other hand, if some permanent change increases the average annual income without increasing other expenses in the same proportion, there will be a larger surplus that may be divided between landlord and tenant.

Landlords frequently assume that they should have a rent equal to a certain rate of return on the value of the farm—in other words, that the farm should yield 4 or 5 percent, or some other rate of interest, on

The law of most States permits whatever rental rate the parties wish, regardless of its effect upon the land. its current market value. In some regions this assumption may be a reasonable starting point in determining the landlord's contribution, but several conditions may make this an improper basis for establishing rental rates. In the first place, during speculative periods, farm land is greatly overvalued in relation to its normal earning capacity. Buyers are inclined to pay much more for farm land that is

rapidly increasing in selling price than they would if rent or farming profits were regarded as the only source of return. If too much is paid for the land, the rental rate should not be expected to return normal interest on the purchase price.

To base the rent on an inflated value would be a serious handicap to the tenant in his attempt to make a satisfactory income from his farming. In the long run, tenants must earn, in addition to the amount needed for paying rent, enough to cover their expenses of farming and to give a fair return on their own labor, management, capital, and risk. Moreover, a good tenant should receive more for his labor and management than an inefficient tenant. In other words, if the conditions are such that an ordinary tenant can make a fair income, an enterprising and skillful tenant should be able to make money and accumulate capital.

By listing the items of investment and farm operating expenses to be incurred by landlord and tenant and by assigning values to

them, the relative importance of the contributions of each party can be fairly well estimated. On the basis of these contributions the proportionate division of income can then be calculated. Not only may such a procedure help in arriving at a fair rental figure, but it should also emphasize the importance of establishing a profitable system of farming. For example, if the total contribution of the landlord—including land, improvements, and operating expenses—makes up two-fifths of the total costs of running the business, then the gross farm income should be divided in such a way that about two-fifths would go to the landlord and three-fifths to the tenant. When cash rent is specified, the risk element should be given proper consideration in deciding upon the respective contributions, and an allowance should be made for management in proportion to the amount provided by each party.

An adjustment in rent is usually appropriate when the tenant operates the farm in full accordance with Government conservation programs. Often the tenant may be required to grow a larger acreage of legumes or other soil-conserving crops than he is equipped to use efficiently. This may be remedied on many farms, partly at least, by increasing the size of the livestock enterprises, but many tenants may not be able to make this adjustment. Rents may remain the same as before full participation in governmental programs was undertaken, although the effective size of the farm unit has been reduced through the shifting of cropland from grain production to soil-conserving or soil-building uses.

Thus, when rents stay the same because of custom, the tenant's share of the agricultural conservation payment may be inadequate return for the adjustment he must make in his farming. Then, too, many of the results of agricultural conservation practices eventually accrue to the benefit of the landlord, because if productivity is increased he may then be able to get a higher rent for the farm.

2. The kind of rent to be paid should be influenced by the type of farming best suited to the particular circumstances.

A major point in deciding the kind of rent to be paid is to make sure that the agreement will encourage the tenant to carry on his farming in harmony with good land use and the production capabilities of the farm. Although straight cash or share rent may best fit some types of farming and meet the needs of both parties, a combination of cash and share rent may be more desirable in many cases.

Tenants who raise intensive cash crops which require much hand labor may prefer to pay cash rent. Not only is this kind better adapted to specialized types of farming—as for example, commercial vegetable production—but also the tenant stands a better chance of receiving full benefit for his labor and management under these specialized conditions than he would with share rent. On farms where crops are the major sources of income, however, crop-share rent is usually adaptable to the type of farming. But in a system of farming in which the production of feed crops is the major enterprise and the tenant owns all the livestock, it may be desirable for him to pay cash rent for hay and pasture land and to give the landlord a share of the other crops.

It may be possible, when both parties share in the livestock income, to adopt a more advantageously balanced soil-improvement program;

besides, the maintenance of buildings and fences may be better on such farms than when a landlord does not receive a part of the livestock returns. Consequently, livestock farms are often rented on a share basis, particularly when both landlord and tenant own an interest in the livestock. Stock-share rent is generally paid on tenant-operated dairy farms, especially when they have a high proportion of land in pasture.

After deciding the kind of rent to be paid, several additional details may need to be specified in the lease. It is necessary to take account of all items, regardless of their size; for a fair and accurate division of all income will do much to promote harmony between landlord and tenant. The use of all jointly owned products may then be clear to the tenant and landlord.

Certain expenses that may be deducted before division of income takes place should not be overlooked. These deductions should be plainly stated in the lease.

When a farm is rented on a crop-share basis, for instance, and the tenant is allowed to feed work stock or other livestock from the undivided feed crops, the agreement should state definitely the largest number of each kind of livestock that the tenant may keep in this manner, so that there will be no misunderstanding when the crops are divided. In some cases a more satisfactory method might be either to require each party to feed all privately owned livestock out of his own share of the crop, or to charge each party for all feed used out of the undivided crop.

A tenant who pays stock-share rent is often allowed to use for his family milk, eggs, and other products out of the undivided produce of the farm. Sometimes the landlord also receives certain things for family use out of the jointly owned produce.

3. The date agreed upon for the payment of rent should generally correspond with the time that the income is received.

The date of division or payment of rent should be stated definitely in the lease. On many farms it is customary to divide shared crops as they are harvested; payment of cash rent should come at a time when the tenant receives the major part of his income. In the case of dairy or poultry farms, the landlord may receive his part of the milk or egg check each month, but when the lease provides that the division is to be made only after expenses are deducted it may not be convenient to divide the proceeds of the business so frequently. If only one major crop is produced on the farm—as cotton, or wheat, or alfalfa—the time of paying rent, whether cash or share, ordinarily should come when the crop is marketed. The reason for dividing share crops at harvesttime is to give either party the opportunity to sell or hold his part.

When the rent is a share of the crop, the agreement should explain exactly where the landlord's share is to be delivered, as well as the method for making the division. Delivery is usually made in the crib, or in the bin, or at the market. Crops like corn are sometimes divided in the field, and some leases specify that the corn is to be shocked with the same number of corn rows included in each shock row. If the tenant is to deliver the landlord's share at the shipping point, this should be specified in the contract. The method of divi-

sion—whether by weight, row, bushel, stack, bale, or wagonload—should be clearly understood.

Any agreements as to place of delivery of share products and methods by which rent is to be paid should be reasonable. To specify that the crop or other produce is to be delivered to some distant point may be unreasonably expensive and should be avoided, unless the landlord agrees to bear the added expense.

If work by the tenant is to take the place of all or a part of the rent, the amount of work to be done needs to be clearly stated in the lease to avoid arguments later. An accurate record of the time spent by the tenant should be kept and given to the landlord when settlement is made.

4. Rental payments that vary according to farm-product prices will protect both landlord and tenant against sudden fluctuations in prices.

During periods when prices of farm products are likely to fluctuate widely, there is a great need in cash or share-cash leases for provisions which allow for adjustments in the amount of cash rent to be paid. Most plans to meet these conditions call for part-payment of the rent at a flat rate on a stated date (as December 1, etc.) with the remainder, calculated on the basis of farm prices for the period agreed upon, due at a specified later date. Although production costs are important, a tenant's ability to pay a stipulated cash rental often depends largely upon the price he can get for his farm products.

For example, if the lease stipulates the payment of \$800 cash rent when the price of corn averages 80 cents per bushel, 1,000 bushels of corn are needed to pay the rent. If the price of corn should drop to 60 cents per bushel, the tenant would have to pay the equivalent of 1,333 bushels of corn. Likewise, should the price of corn increase to \$1 per bushel, only 800 bushels would be necessary. Price fluctuations much greater than these have occurred since 1930.

In order that rent shall be adjusted in proportion to prices for farm products and both landlord and tenant share in the risks of price changes, some State agricultural colleges have developed sliding-scale leases. Such a lease, which provides for cash payments proportional to an average or index of the prices of the more important farm products, has been in use in Iowa for several years. With a cash lease based on the sliding-scale principle, the landlord shares in the benefits of rising farm-product prices, and the tenant is protected if prices fall abnormally. When prices go up, the tenant pays more rent—when they fall, he pays less. Cash rent can be adjusted to the price of one product (corn, or cotton, etc.), or to several products if production is diversified. If cash rent is based upon the prices of several products, consideration must be given to the proportion of income received from different sources.

When the farm is rented under a cash lease providing for variable payments, the landlord and tenant agree on what a fair cash rental for the particular farm would have been during some past year or series of years. This year or series of years is called the *base period*, and the amount of rent agreed on as fair for this period is called the *base rent*. At the end of the lease year the amount of cash rent to be paid is calculated by taking the average State or area index of prices (when more than one product is used for the base) for the lease year (or for the first 11 months of the year, as used in the Iowa vari-

able-payment lease) and dividing it by the average price index for the base period. The figure obtained is multiplied by the base rent agreed upon as the final step to determine the amount of rent to be paid.

For example: Suppose (1) that the landlord and tenant agreed upon \$5 per acre as a fair rent for the base period, (2) that the average farm-price index of the particular products chosen was 90 for this period, and (3) that the average farm-price index for the lease year was 180; then the rent for the lease year would be calculated as follows: Divide 180 (average farm-price index for the lease year) by 90 (average farm-price index for the base year) and multiply the answer, 2, by the base rental price per acre, \$5. Under these conditions the cash rent would be \$10 per acre for the lease year— $180 \div 90 = 2 \times \$5 = \10 . On the other hand, if for the lease year the index of farm prices should fall to an average of 45, then the rent would be only \$2.50 per acre— $45 \div 90 = 0.5 \times \$5 = \$2.50$. In each lease year the rent fluctuates with prices received for particular agricultural products chosen to represent the base.

In some years farm-product prices may be very high; yet because the tenant has a short crop his income may not be increased. Sometimes, as in 1936, agricultural prices rise because of widespread crop failures or production disasters. The tenant should not be expected to pay rent in proportion to the index of agricultural prices in years when, through no fault of his own, production on the farm is very small. Variable-payment leases, therefore, should contain provisions to meet such unexpected and unforeseen conditions. An emergency clause, providing for an adjustment in the rent to be paid under these circumstances, could specify that the amount of rent payable would also depend on the relation of yield to normal crop production.

5. Unforeseeable disasters, such as floods, fire, and drought, should be safeguarded against by appropriate agreements for rental adjustments before they happen.

When crops are destroyed by floods or drought, suitable adjustments should be made in the amount of rent due. It is not reasonable to expect tenants to pay full rent if there are complete or partial crop failures, or if disaster to the farm production is due to causes beyond their control. This principle of providing for revision in rental payments may be applicable to all agricultural leases regardless of the kind of rent. As the principle applies to crop failures and disasters on individual farms, which may not affect agricultural prices, it should be incorporated in cash leases that require fixed rentals as well as in those that specify variable payments.

In deciding the adjustments in rent that should be made because of unforeseeable disaster, consideration should be given to the value of the tenant's labor, cash expenses of production, and fixed costs borne by the landlord. The rent agreed upon should not be so large as to deprive the tenant of operating capital and funds with which to carry on his farming in the next crop year; neither should it work undue hardship on the landlord.

Satisfactory landlord-tenant relationships depend largely upon each party assuming a give-and-take attitude and a wish to be fair under the particular circumstances. It may be well to outline in the lease the procedure to be followed in adjusting rents in case of

crop failure. If this is not done and if the two parties cannot agree upon a fair adjustment in the rent, they should agree to arbitrate the dispute.

CONSERVATION AND IMPROVEMENT OF THE FARM

A good lease encourages the tenant to take proper care of the improvements and to maintain the farm as an efficient productive unit.

1. The farm will be better developed and cared for when the lease makes clear the responsibilities of both parties in making improvements and repairs.

Definite details as to the amounts and kinds of labor and materials to be furnished in maintaining the land and improvements should be clearly indicated in the lease. Improvements, as distinguished from ordinary repairs, are supposed to add to the value of the farm, and so most of their cost generally is paid by the landlord. But if the rent is not to be increased after improvements are made, a tenant who has reasonable security of occupancy may properly be expected to help toward making the improvements, particularly if they are made at his request. The general practice is for the landlord to furnish all materials used, together with all skilled labor needed, and for the tenant to furnish the unskilled labor.

When the tenant is called upon to furnish any unusual amount of labor on the improvements or to furnish it at a time when it is needed for ordinary farm work, he ought to be repaid for its actual cost to him. At the time the lease is made, some landlords agree with their tenants upon the wages to be paid for special work that improves the farm. The extent of the tenant's contribution may be decided by the benefits he may be expected to gain as compared with those accruing to the landlord or later tenants. In the case of temporary fences built under a cash lease, nearly all the benefit is to the tenant. Papering and painting inside the house may benefit a later tenant; so some landlords furnish the materials for such jobs if the tenant is skillful enough to do the work in an acceptable way.

Which of the two parties should be responsible for making repairs will depend so much on the particular circumstances that no rule can be laid down that would apply to all cases. In general, it is regarded as the tenant's duty to repair all breakages and damages that are his own fault or the fault of his family or due to the special ways in which he uses the property. Any repairs that would have been necessary even if the property were not in use should usually be paid for by the landlord.

There may be other repairs to which both parties can contribute with advantage to themselves. In most cases the tenant is expected to keep in good repair all buildings and fences that were on the farm at the beginning of occupancy and any improvements added later by the landlord.

2. Compensation for improvements made by the tenant encourages conservation of the soil, long-time development of the farm, and improvement of the dwelling.

One of the chief reasons for tenant-operated farms not being maintained in as satisfactory a condition as farms operated by owners is

that many tenants are unwilling to make major repairs on rented farms. Few improvements are likely to be made when tenants have no assurance that they will be permitted to gain the full benefit of them. This shortcoming can largely be overcome if the landlord agrees to pay the tenant for the unexhausted value of any useful improvements added by him and left on the farm when the lease is terminated. Such assurance is particularly necessary in a lease that is granted for only a few years. If the tenant is to be expected to farm in a way that will increase rather than decrease the fertility of the soil and the value of the improvements, he needs to know that his investments on the farm can be recovered when the lease is terminated.

Kansas law provides that tenants may claim compensation for un-exhausted improvements under specified circumstances.

Making new improvements that become a permanent part of the property is customarily and properly the responsibility of the landlord, for they affect the rental value of the real estate. If the tenant makes at his own expense—and with authorization from the landlord—any permanent improvements (such as new buildings, major additions or repairs to the buildings, permanent fences, wells, water or sewage systems, permanent household fixtures, ponds, or lakes) he should be compensated by the landlord for the costs. In calculating these costs the value of the tenant's own labor should be included.

Improvements which benefit both landlord and tenant over several years should be made by the two parties jointly. But if the tenant makes, at his own expense and after receiving authorization from the landlord, any improvement of this nature, such as planting orchards or vineyards or farm wood lots, he should be compensated by the landlord to the extent of the landlord's customary share of the cost of such improvement. Minor temporary or removable improvements ordinarily should be made by the tenant at his own expense.

Certain improvements, such as fertilizer and manure applied to the soil, have both a short- and a long-time value to the farm. They are important in conserving the soil and increasing the farm's productive capacity. When these improvements are made by a tenant who leaves the farm before he has benefited from them to the full extent, he should be compensated by the landlord for the value remaining on the farm. Examples of land improvements for which the tenant should receive compensation for their unexhausted value when he leaves are:

1. Recently seeded alfalfa or other legumes, or pastures on which the tenant has paid for labor, limestone, fertilizer, or seeds.
2. Application of limestone, phosphate, or other fertilizer, bought and applied by the tenant, resulting in residual benefit to the land.
3. Certain specified erosion-control devices, such as check dams and terraces constructed at the tenant's expense.
4. Clearing land.
5. Leveling land for irrigation.
6. Improving pastures.

Compensation need not be allowed for manure resulting from the feeding of crops produced on the farm, if such a feeding policy is recognized as the usual practice of the community. Sometimes, however, it pays better to sell crops than to feed them. When this is the case, it will be necessary to encourage the tenant to feed his crops rather than to sell them by compensating him for the unexhausted value of the manure produced or by making an appropriate deduction from his rent.

To decide upon the residual value of manure and fertilizer applied to the land is likely to be difficult. There is no exact knowledge as to the actual quantity of fertility that is likely to remain in the soil under varying conditions. Some State agricultural experiment stations have information that is reasonably reliable on the residual values of manure and fertilizer remaining in certain soil types for various periods after application. Although an exact schedule for calculating these values is generally not available, estimates can be made that are accurate enough to encourage soil-conserving practices and needed improvements. This information, which usually can be furnished by county agricultural agents, may well be used by landlords and tenants in arranging terms for compensation.

It is frequently desirable at the time of entering into the lease contract for the two parties to agree upon the value and nature of improvements for which the tenant may claim compensation. If any items are left for later decision and the landlord and tenant are unable then to agree, the matter should be settled by a disinterested third party or an arbitration committee. It could be specified in the lease

Laws attempt to hold tenants responsible for waste to property, but only Kansas has a law to reimburse the tenant for improvements he may make.

that the amount of compensation due for these improvements might be their value to an incoming operator. If the usefulness of an improvement ends before the tenant leaves the farm he should not expect to receive compensation. Any improvement that has a long-time value should usually be paid for by the landlord. But when an improvement is of equal advantage to both parties, as is often the case on share-rented farms, the landlord should bear at least his proportionate share of the first cost and should compensate the tenant for his interest in any improvement that has not been used up at the termination of the share relationship.

3. A tenant who has the right to remove nonfixed structures which have been made by him is encouraged to do superior farming.

Many rented farms do not have enough buildings or fences for the tenant to do any livestock farming. As indicated in an earlier section, the landlord should provide whatever permanent improvements are needed. But there are many cases where temporary or movable structures could meet the practical requirements of livestock production. For example, individual, movable hog houses and temporary fencing may enable the tenant to raise hogs.

If the lease contains provisions for compensation as recommended in 2 (p. 20), this matter will be taken care of; for the tenant will then have assurance that he can expect, when his lease terminates, to receive payment for the unexhausted value of improvements made at his own expense. On the other hand, a tenant who has no certainty that he will be repaid for such improvements may be unwilling to make any. This situation can be provided for in the lease by including an agreement permitting the tenant to take with him when he leaves any movable improvement made at his own expense. He should be allowed to move the improvement, even though legally it has become a fixture,

State laws frequently do not give agricultural tenants the right to remove, at end of lease, fixtures and improvements made by them.

provided the farm is not damaged by removal. The tenant would not receive compensation for the improvements he removes.

4. Outlining briefly special care to be taken in the use of particular property and providing compensation for dilapidations encourage the tenant to maintain the farm and the landlord to compensate him for improvements.

In certain cases both parties to the agreement may wish to list the items which are to be given particular care during the lease period, such as pasture, orchards, and wood lots. Correct use of pasture, of course, depends to a certain extent on the weather; but the approximate number of months that pasture is to be used and the number of livestock to be grazed may be specified in the lease. A tenant may not want to be responsible for the care and maintenance of an orchard or a vineyard on the farm, particularly if the fruit brings in only a little income and requires considerable labor and management at a time when work is most needed for the major crop or livestock enterprises. In any event, if the way that such specialized enterprises are to be cared for is different from the usual custom in the community, it should be mutually agreed upon and made a part of the lease.

To agree in advance on what use is to be made of any timber growing on the farm is usually a good practice. In most cases the tenant is permitted to use on the farm any dead and unmarketable wood or other timber designated by the landlord. Often the landlord retains all other rights to the woodlands, with the exception of pasture, which may be granted to the tenant. Use to be made of sand pits and gravel beds varies, but generally the tenant may use, free of charge, whatever quantities are needed for repairs and improvements on the farm. The tenant is seldom allowed to sell any sand or gravel without the landlord's consent.

Because the landlord has confidence in the tenant, details concerning the care of existing improvements on the premises are frequently not specified in the contract. Items that the two parties think are important, however, should be agreed upon and stated in the lease. For example, the tenant may be required to keep the windmill or other pumping machinery properly oiled and cared for and to repair any damaged machinery, except when loss is due to circumstances beyond his control. The tenant may also agree to take proper care of and prevent injury to trees or vines and shrubbery about the buildings and in the yard and garden; to trim all hedges as they need it and to burn accumulations of brush; and to keep open all necessary ditches and tile drains.

Although the landlord's property may be protected by these provisions, he should also be guaranteed reimbursement for any property damaged by the tenant or his family during his occupancy. Specific

Some State laws, patterned after items for which claim could be made may well be set forth in the lease.

an English law of the thirteenth century, no longer really protect the landlord's property against damages. The several aspects of farm conservation and improvement are closely related and so must be viewed as a whole. If the tenant is to be encouraged to develop the farm and if he is to be held responsible for damages to the property, he should be guaranteed the right of claiming compensation for improvements that he may make to the property. Likewise, the landlord cannot be

expected to agree to compensate the tenant for improvements unless he is assured that the tenant will be responsible for dilapidations.

EFFICIENT PRODUCTION

A well-organized and properly managed farming system is essential to good landlord-tenant relations.

1. Farm-lease arrangements should encourage tenants to organize and operate rented farms in an efficient way.

A harmonious landlord-tenant relationship depends largely on whether the farm is earning a good income for both parties. If the returns are reasonably high, the landlord is generally willing to make repairs and improvements, and the tenant is likely to do his best to improve his farming. Therefore, it is important that the terms of the lease provide for good farm-management practices which will bring about the production of abundant quantities of food and fiber at relatively low cost.

Detailed specifications for operating the farm are seldom necessary in a lease, and definite decisions should be left to the judgment of the operator. Requirements that are too rigid may not fit particular circumstances arising later, and they may even handicap the tenant and be unprofitable to both contracting parties. Many farm operations demand immediate decisions which depend upon prevailing conditions and cannot be anticipated when the contract is drawn up.

A tenant who takes most of the responsibility for managing a farm usually agrees to operate it "in a good and farmerlike manner." This means simply that his farming standards should not be too different from those maintained throughout the neighborhood. Any part of the farming that the landlord is to supervise should be definitely decided at the time the lease is made. Major questions about farming operations arising after the lease is in effect should be decided by mutual agreement.

2. The acres of crops to be grown and numbers of livestock to be kept should make possible a well-balanced farming system.

Maintaining the productivity of the farm and providing, so far as practicable, adequate feed for livestock should be considered when planning the farming system. The cropping program should be based on approved and accepted farm-management principles and should be consistent with safeguarding soil fertility and efficient use of the tenant's labor supply. It may be well to work up a simple farm plan, taking into account the anticipated inputs and expected returns. Such a plan may be useful in developing a desirable combination of enterprises and a proper balance suited to the particular farm and to the tenant's abilities and wishes. In addition, a map attached to the lease might make clearer the specifications and procedure regarding cropping practices. The map could show such details as past and present uses made of the land, rotation to be followed in the future, the drainage system, and plans with respect to clearing, liming, manuring, and fertilizing.

Kinds and numbers of livestock kept will depend upon such things as the type of farm, availability to market, and cropping system. Usually the number of livestock should be consistent with the quantity

of feed available, the labor supply, buildings, fences, etc. On most farms there is some low-grade roughage—straw, corn stover, prairie hay—that cannot be used effectively unless it is fed on the farm. At least enough animals should be kept to use these supplies. If the farm is located in a market area where purchased feed can be used profitably, as in some dairy and poultry-producing areas adjacent to large consuming centers, it is often a good practice to have larger herds and flocks than could be maintained on the quantity of feed produced on the farm. Again, a simple farm plan may be the most satisfactory way of determining the number and kind of livestock that should be kept on the particular farm.

Efficient use of the tenant's labor supply needs to be kept in mind when planning the livestock program. If only crops are grown there may be several slack times during the year when the workers cannot be used to good advantage. Including certain livestock enterprises in the organization of the farm usually means better use of the labor. Periods when the most work will be required on livestock may be planned so that they will correspond with slack periods in crop work. For example, on a farm where growing corn is the chief enterprise the tenant may wish to try beef cattle feeding, in order to keep busy during the winter. After the corn is harvested there is usually less work to do on this type of farm, and perhaps the tenant would find it profitable to spend his time in feeding cattle. In dairying, however, a fairly constant labor supply is needed throughout the year.

3. Arrangements for participation in agricultural programs should be included in the lease, when practicable.

The landlord and tenant should agree to cooperate, when it is practicable for them to do so, in any suitable soil conservation, production-adjustment, or other programs designed to aid agriculture. Long-term leases could provide for modifying certain items from time to time, if that were necessary to conform with such programs. There should be an agreement that any cash or other benefits received from such a program would be divided between landlord and tenant in the way prescribed by the law setting up the program.

When the leased farm is treated as part of a larger tract, in the administration of the governmental program, the tenant is entitled to receive his proportionate share of the benefits and, in like manner, is obligated to contribute proportionately in fulfilling the requirements of the program. An adjustment in the livestock system may be necessary when the tenant operates the farm in such a way as to obtain the maximum payment under a soil conservation program. More livestock may need to be kept in order to make effective use of all legumes and other soil-conserving crops.

4. Proper use of crop residues and manure increases crop production and conserves the soil.

All leases should, so far as possible, safeguard the fertility of the farm. The use to be made of crop residues and manure needs serious consideration. In some localities proper recognition may not be given to the loss of organic matter and fertility from burning strawstacks and cornstalks. In such places it may be well to designate that the straw shall be spread and the cornstalks rolled, disked, and plowed under.

The contract should indicate the utilization on the farm of a reasonable part of the feed crops and the return of manure, straw, and other roughage to the soil. Leases covering the use of land by a tenant who keeps his livestock on another farm might provide that, if the straw, corn stover, or other roughage are removed from the land so rented, the manure is to be returned. But a landlord who does not furnish the necessary buildings and fences to make it possible for the crops to be fed on the rented farm should not require that the manure be returned. If crops are to be pastured, an agreement may be necessary regarding practices that the two parties think are important. In certain areas of the Cotton Belt where the boll weevil is active, and in those parts of the Corn Belt which are troubled with corn borers, the lease may well provide that the tenant follow the recommended practice of destroying cotton and cornstalks.

5. Providing for action to be taken when either party willfully neglects to perform his obligations may safeguard against waste and inefficient farm operation.

Unless both parties cooperate and faithfully carry out their responsibilities, it is difficult to develop a highly productive system of farming. Keeping the land fertile and in a high state of cultivation at all times is important in getting efficient production. Therefore, in drawing up a farm lease it is usually desirable for the two parties to agree on certain courses to be taken if either party willfully neglects to perform the duties stated in the contract.

The landlord, especially in share renting his farm, needs assurance that the tenant will not neglect or damage the property. In the lease the tenant often agrees that, if he is proved guilty of willful neglect, the landlord shall have the right to hire persons to do the work and to charge the tenant with the cost. Likewise, it is reasonable for the tenant to be assured by the landlord that the latter will hold to his agreements as to the quantities of fertilizer and seed to be furnished and the repairs and improvements to be made; but, if the landlord fails to do these things, the tenant ought to have the right to buy materials and to hire persons to do the work, or to do it himself, and collect the costs from the landlord. In general, before action of this kind is taken, however, the decision as to whether either party has willfully neglected to carry out his obligations should be mutually agreed upon or decided by arbitration.

RESPONSIBILITIES OF THE CONTRACTING PARTIES

An honest desire on the part of each party to cooperate fully in carrying out his duties as specified in the lease helps to assure a harmonious working relationship.

1. It is essential that each party to a lease faithfully perform the duties which are his respective contribution toward operation of the farm.

Each party to the contract assumes certain responsibilities. Thus, before any duties are agreed to, it is essential that they be thoroughly understood. Both tenant and landlord must remember that their respective obligations are for their mutual benefit and that faithful performance of duties will leave little room for disagreements or disputes.

Certainly of utmost importance in achieving good landlord-tenant relations is an attitude of fairness and a genuine desire and willingness "to meet the other party more than half way" in reaching an understanding.

A tenant is entitled to assurance that the landlord is the owner of the farm, or that the landlord has the right to rent the farm, and that he will warrant and defend the tenant's possession against all persons so long as the lease is in effect. The tenant of a farm that is for sale has a very uncertain occupancy. Therefore, he needs to know that his rights will be recognized. He should not be made to move before the end of the crop year, but if he does consent to move before his lease ends the landlord should be obligated to compensate him for his interest in any growing crops. Or, the new landowner may complete the care, harvesting, and sale of such crops and pay the tenant his share of the proceeds, after deducting a reasonable charge for the expenses. In addition, the landlord should pay the tenant for any unusual costs resulting from early termination of the contract. The tenant's claim for compensation for the unexhausted value of improvements can be handled in the same manner as if the lease had terminated in the regular way.

Since the landlord provides the land, buildings, and other improvements, it is necessary for him to retain the right and privilege of going on the farm at any reasonable time to look after his interests. This includes the right to make repairs, build new improvements, spread fertilizer, and do work or have it done, either personally or by his agents or employees.

Likewise, since the tenant operates the farm, he should agree not to sublet any part of it without the consent of the landlord. It is just as important, however, that the landlord give assurance that he will not assign the lease unless the tenant approves. If it is mutually agreed that an assignment is to be made, it is likely that some adjustments in the contract terms may be necessary.

It is the tenant's duty to occupy the farm continuously during the leasing period, provided that the rented land has adequate buildings and that this was the expectation of both parties when the agreement was made. If the tenant moves off the farm without the knowledge or consent of the landlord, insurance on the buildings may become void. Then, too, when the premises are not occupied, the improvements may deteriorate more rapidly than when someone is there to keep them repaired and to protect them from theft.

Many rights and duties of the two parties are governed in most States by old English common law, because specific laws covering these relationships have not been passed.

Since the amount of share rent received by the landlord depends largely upon the volume of production, it is the duty of the tenant to perform the needed work on the rented farm before he engages in outside activities. A tenant should not take up other occupations—such as custom combining, threshing, trucking, or baling hay for others—if it means neglecting the farm. However, it is often advantageous for the tenant to exchange work with his neighbors, and it may be desirable for him to farm additional land if the unit is not large enough to utilize his equipment, management, and labor supply to

capacity. In farming areas where "field renting" is general, it may only be necessary for the tenant to agree not to neglect the operation of the rented land. Any provision regarding this matter should fit the special circumstances of the farm and the particular wishes of the two parties.

When the interests of landlord and tenant are closely related, as is likely to be the case under a stock-share lease, it is essential that careful records be kept of all transactions which affect both parties. As the tenant is usually better acquainted with details of the farming, it is ordinarily his duty to keep the records. Such accounts may be designed to fit the specific needs of the two parties. In general, they should list all purchases and sales for the joint farm business. It is desirable to include an inventory of all property, whether jointly or personally owned, and to identify the ownership of each item. These records can be very useful when it comes time to make out income tax returns, make financial statements, or dissolve the relationship. When a production record is also kept, it may well provide a history of yields, fertilizer applications, breeding dates, and other information for later use in planning the farm business.

2. It is the duty of each party of the lease to safeguard the interests of the other in joint enterprises and property.

Under a livestock-share agreement much of the livestock or equipment may be jointly owned. Both parties may share in the management of the property owned in common; but often for reasons of convenience, the day-to-day decisions are left to the tenant. In handling such property it must constantly be kept in mind that decisions made by either landlord or tenant affect both of them and that care should be taken to protect the interests of the other party.

When each party is to furnish part of the livestock or other equipment for the joint enterprise, the numbers, ages, and weights of livestock should be considered in making the appraisal at the time the lease begins. No set way of appraising need be followed, but it is advisable that both parties use the same basis so that the valuations will be comparable. Either the present market prices or the probable worth to the business would generally be a satisfactory basis for evaluation. If the landlord and tenant cannot agree upon a fair value for the property that each contributes to the business, the decision may be left to a disinterested third party or to arbitration by a committee.

In stock-share leases and other share contracts, each party is vitally interested in the wisdom and honesty with which expenditures and sales are made. The landlord may have enough confidence in the tenant's honesty and discretion to trust him with all transactions. On the other hand, if the tenant is inexperienced in business matters, it may be to his interest, as well as to the interest of the landlord, that so far as practicable all purchases and sales for the joint account be made after talking them over together. Generally speaking, one party or the other is designated to make all transactions; for if both are buying and selling without telling each other, there is likely to be confusion. There must be a definite agreement about this matter to avoid misunderstandings.

As it is usually inconvenient for the parties to consult before acting on small expenses, it may be well to specify that the tenant can make

purchases and sales up to an agreed amount without asking the advice of the landlord. It should also be agreed that whenever an expenditure or sale is made for the joint account, the party making the transaction is to furnish the other party with satisfactory vouchers or receipts.

3. It is the mutual obligation of both parties to agree at the time the contract is made upon a satisfactory method for making a final settlement when the lease is terminated.

At the termination of the lease any jointly owned property should be divided upon the basis of the respective interests of the two parties. Usually there is no question about the division of seed, feed, and other

In most States the outgoing tenant has a right, only under certain circumstances, to crops that mature after termination of the lease. supplies which can be separated readily. But when livestock and machinery are owned in common, special consideration may need to be given as to the way to make the division. Any one of the ways suggested here may be appropriate: (1) Either party may sell his interest to the other at such price and upon such terms as may be mutually agreed; (2) one party may place a value upon the entire property, and the other party may either buy or sell at this price; (3) the common property may be sold at a public sale, the expenses of the sale deducted, and the proceeds divided according to the respective interests of the two parties; or (4) the matter may be settled by arbitration.

The acreages of plowed land and land seeded or planted to crops at the beginning of occupancy should be specified in the lease. When the tenant vacates the farm, if the total acreages of plowed, seeded, or cultivated land are greater than at the beginning of his occupancy, he should be compensated by the landlord on the basis of the per acre value previously agreed upon. If the total acreage is less than at the beginning of his tenancy, however, the tenant should compensate the landlord for the deficiency, provided that the deficit was not due to drought, flood, or other causes beyond the tenant's control. The agreed basis of compensation and the rate per acre ought to be set forth clearly in the lease.

OPERATING CAPITAL AND EXPENSES

The proper division of responsibility for supplying operating capital and expenses depends largely upon the rental rate, the kind of lease, the financial position of the two parties, and the type of farming desired.

1. The proportion of operating capital and expenses contributed by each party influences the amount of rent that should be paid for the farm.

When the tenant rents only land, he expects to pay a lower rental for a farm of given productivity than if the landlord also supplies buildings, fences, and other improvements. Thus, if the tenant pays only land rent, he will necessarily be responsible for providing all or most of the operating capital and paying the production expenses. If the landlord furnishes, in addition to improvements, such items as lime, fertilizer, and seed, the tenant can expect to pay a higher rent. Under

a lease in which the landlord agrees to supply a fully equipped operating unit, the rental rate per acre or for the farm will probably be still higher. The chief problem in many share-rent arrangements is to balance properly the items provided by the landlord with the rental payment agreed upon; for fractional share-rental rates usually follow a community pattern instead of varying to fit the situations on individual farms.

2. The allocation of operating costs under each kind of lease is one way by which the rent may be adjusted to the farm's productivity.

Although the responsibilities of the landlord and tenant in furnishing such items as livestock and work animals, materials and supplies, machinery and equipment, and specialized labor and custom work are fairly well established in some communities, it is much easier to make adjustments in what the landlord furnishes than in the customary rental rate. This is particularly true for share rent, but it is also true for cash rent. Usually cash leases provide for a minimum of contribution by the landlord to operating capital and expenses, while in many items the parties to a livestock-share lease participate in the same proportion as that in which the products are divided. Under crop-share and share-cash leases, many items that affect the production of crops are supplied by the two parties in the same proportion as that in which the crops are shared, but the tenant pays all expenses in the production of livestock.

It must be recognized, however, that the customary division of operating capital and expenses will not always fit a particular farm. It may be desirable to depart from the customary cash rent per acre or from the usual share arrangement in a share lease, but changes are difficult. Under such circumstances it may still be possible to balance the rent payment against the farm's productivity by varying the two parties' contributions to operating capital and expenses. This is a rather roundabout method of adjusting the rent to the productivity of the farm, but it may be more feasible in most cases than changing customary rental rates.

3. The financial position of the two parties should influence what each contributes.

If the landlord is no longer going to farm he can frequently contribute such items as livestock, machinery, feed, and supplies, along with the land and buildings. This sort of a rental opportunity will be especially attractive to a young man who has limited capital. At the other extreme, if the tenant has a considerable amount of capital, he will usually want to furnish almost everything except the farm. Most landlords and tenants, of course, fall between these two extremes. However, if neither the landowner nor the prospective tenant can afford to supply the necessary operating capital, it will usually be advisable for them either to find a third party who is willing to back them or not to make a contract.

This general guide is not so applicable to livestock-share leases as to the other kinds of contracts. The landlord usually is in a much better position than the tenant to invest funds in other endeavors. In fact, it is usually to the landlord's advantage to arrange the lease so

that the tenant's interests are not divided between farming and some other money-making venture.

4. The division of responsibility for certain items may greatly influence the type of farming and certain farm practices.

If the landlord is interested in maintaining soil productivity through using the feed crops on the farm, he may have to help supply the items that will make livestock possible. On the other hand, if he is not much concerned with the type of farming that the tenant carries on, the landlord may furnish little or none of the operating equipment and capital.

The responsibility for furnishing such items as seed, fertilizer, spray material, and veterinary fees may have a profound effect upon certain farming practices. For instance, a share-renting tenant whose seed corn has customarily been selected from his share of the crop may be very reluctant to buy high-priced hybrid seed entirely at his own expense, because the increased production would be shared with the landlord. However, if the landlord were to share the expense, the tenant might prefer to use the more costly seed.

This can be illustrated by another example. Suppose a tenant, operating under a half-and-half share lease and obliged to furnish all of the fertilizer, calculates that the use of \$2 worth of fertilizer will increase the value of the whole crop by \$5. Since the value of the tenant's half of the increase (\$2.50) would exceed the cost of the fertilizer, he could well afford the application. But suppose the value of the crop were increased by only \$3; obviously the tenant would not find the investment worth while. In this case he would be spending \$2, and his share of the added income would be only \$1.50; thus, while the tenant would lose 50 cents, the landlord would gain \$1.50.

This arrangement, of course, is inequitable. Had the cost of fertilizer been shared in the same proportion as the value of the crop (half and half), the tenant, too, could have benefited from the expenditure. For then his costs would have been increased by only \$1, but his income would have been \$1.50 greater, or, he would gain 50 cents by the application.

GENERAL PROVISIONS

Including provisions for arbitration of disagreements and wording the contract in such a way as not to imply a partnership will help to insure amicable relations between landlord and tenant.

1. Landlord-tenant relations may be improved if there is a known and agreed procedure for quickly and cheaply settling disagreements that might arise.

Misunderstandings and lawsuits between landlord and tenant are likely to be very expensive to both parties. So far as possible, it is desirable to foresee the points over which there might be disagreement, and to have a clear understanding about them when the contract is made; for at that time both parties are usually anxious to agree. If the landlord and tenant keep this spirit, any later problems can be easily adjusted.

But some disagreement may arise which cannot be settled by mutual discussion. If this happens and the landlord and tenant do not agree after talking it over, probably the fairest and most practicable method

In some States an agreement to arbitrate, if entered into before the controversy arose, cannot be enforced. of settlement is to leave the decision to an arbitration committee. This committee may be composed of three persons: one chosen by the tenant, one by the landlord, and a third chosen by the other two members. None of these three persons should be related to either contracting party or have an interest directly or indirectly, personally or otherwise, in the questions to be decided. It would be well for the third member to

have some background as an appraiser or some experience in related work. In most situations arbitration would be preferable to court action, because costs are high, and present court procedures are not well adapted to solving farm-leasing problems.

According to common law, the award of an arbitration committee remains open and revocable until the conditions of the decision have been fulfilled. If either party revokes the arbitration agreement, the other party cannot enforce a settlement. He can sue for damages, but that is usually very expensive. Some States require that the party who receives the award through arbitration proceedings must sue in order to collect, but in others the award becomes the judgment of the court when the agreement is filed with the clerk.

Generally, if both parties submit their disputes to arbitration, the awards are held valid and are enforceable. An appeal can be made if there is indication of fraud in arriving at the decision. Unless questions of law are involved, the two parties might agree that the decision of the arbitrators will be final and binding upon both parties unless the sum exceeds an amount specified in the lease.

2. Many misunderstandings may be avoided by phrasing the lease in such a way that a partnership is neither created nor implied.

The relationship of landlord and tenant is not a partnership: A partnership frequently involves joint liability to an unlimited extent

Whether the agreement may be interpreted legally as a partnership depends on how the business is transacted and not upon any statement in the lease. for debts created by either party in the name of the firm, equal voice in the management of the business, and other conditions that are not characteristic of the relation of landlord and tenant. Because the terms of many lease contracts, especially stock-share leases, are of such nature as to suggest a partnership, it is sometimes customary to include in the lease a provision disavowing a partnership.

It is generally held by the courts, however, that parties to an agreement cannot prevent the creation of the partnership relation and its consequences with respect to third parties, provided that the agreement itself and the working relations between the parties thereto possess the elements of a partnership. The facts govern the case, and not the name by which the parties call their relationship. It is important, therefore, that the lease be drawn so that the relationship cannot be construed as a partnership.

CHECK LIST OF POINTS TO BE CONSIDERED IN MAKING A FARM LEASE

Below is a check list of items that landlords and tenants may need to consider when drawing up a farm lease. Of course, no single lease would contain all of these things. But the list might be used advantageously by the landlord and tenant: Together, they might review and discuss the various points, discarding the unnecessary ones and checking those considered suitable for the particular contract. Then, as the lease is put in writing, the list could serve as a guide in assuring both parties that pertinent and important items are not being overlooked or omitted.

I. MINIMUM ESSENTIALS

1. Time specifications and designation of parties:
 - a. Date of making lease.
 - b. Date lease becomes effective.
 - c. Date tenant's occupancy ends.
 - d. Name and address of landlord.
 - e. Name and address of tenant.
2. Description of property leased:
 - a. Name of farm.
 - b. Farm boundaries or legal description.
 - c. State, county, community.
 - d. Number of acres in farm.
 - e. Reservations of any part for landlord.
3. Signatures and acknowledgment:
 - a. Signature of landlord.
 - b. Signature of tenant.
 - c. Signature of wife, if required.
 - d. Signatures of witnesses, if required.
 - e. Acknowledgment or recording, if required.

II. STABLE AND SECURE TENURE

1. Lease period:
 - a. One year.
 - b. Term of years.
 - c. Year to year.
2. Provisions for cancellations:
 - a. When operative.
 - b. Conditions under which operative.
 - c. Length of notice required.
3. Provisions for termination:
 - a. Compensation for disturbance.
 - b. Terminates at end of period without notice.
 - c. Date notice of termination is due.
4. Provisions for renewal:
 - a. Continues automatically from year to year.
 - b. Other type of renewal mutually agreeable.
5. Procedure in case:
 - a. Of death of either party.
 - b. Either party becomes bankrupt.
 - c. Tenant becomes incapacitated.
 - d. Mortgagee takes possession.

III. EQUITABLE RENTAL RATES

1. Basis for rental rates:
 - a. Farm productivity.
 - b. Relative contribution of the two parties.
 - c. Participation in agricultural programs.

III. EQUITABLE RENTAL RATES—Continued

2. Kind and amount of rent to be paid:
 - a. Cash.
 - b. Standing.
 - c. Share.
 - d. Expenses to be deducted before division of produce.
 - e. Products for family use.
 - f. Feeding work stock from undivided grain and hay.
 - g. Privilege of buying at farm prices the landlord's share of feed crops for on-farm use.
3. Specifications on payment of rent:
 - a. Time when payment is due.
 - b. Place where payment is due.
 - c. Method of dividing share rent.
 - d. Work to be performed instead of payment of rent.
4. Schedule for sliding-scale rentals based on:
 - a. Fluctuations in prices of one product.
 - b. Fluctuations in prices of several products.
 - c. Variations in production conditions.
5. Rent rebates for production losses beyond tenant's control:
 - a. Hail.
 - b. Freezes.
 - c. Flood.
 - d. Drought.
 - e. Fire.
 - f. Disease damage.
 - g. Insect damage.

IV. CONSERVATION AND IMPROVEMENT OF THE FARM

1. Development and maintenance of improvements:
 - a. Supplying materials.
 - b. Supplying fruit trees and shrubs.
 - c. Furnishing skilled labor.
 - d. Furnishing unskilled labor.
 - e. Insurance on buildings.
2. Compensation for improvements:
 - a. Major improvements.
 - b. Minor improvements.
 - c. Soil and land improvement.
 - d. For superior farming.
3. Authorization to remove improvements made by tenant:
 - a. Buildings.
 - b. Fences.
 - c. Fixtures.
4. Items requiring special treatment:
 - a. Provisions regarding use and sale of:
 - (1) Timber.
 - (2) Sand.
 - (3) Gravel.
 - (4) Fish.
 - (5) Game.
 - (6) Minerals.
 - b. Specifications on care and maintenance of:
 - (1) Drains and ditches.
 - (2) Reservoirs and ponds.
 - (3) Terraces and check dams.
 - (4) Bridges.
 - (5) Roads.
 - (6) Buildings.
 - (7) Fences.
 - (8) Gates.
 - (9) Windmills.
 - (10) Motors.
 - (11) Pumps.
 - (12) Orchards and vineyards.
 - (13) Farm wood lot.

IV. CONSERVATION AND IMPROVEMENT OF THE FARM—Continued

4. Items requiring special treatment—Continued.
 - c. Time and frequency of mowing or grubbing:
 - (1) Fields.
 - (2) Pastures.
 - (3) Roads.
 - (4) Fence rows.
 - (5) Around buildings.
 - d. Waste:
 - (1) Compensation for dilapidations.

V. EFFICIENT PRODUCTION

1. Rules of good husbandry regarding:
 - a. General farming operations.
 - b. Supervision by the landlord.
 - c. Time of pasturing livestock.
 - d. Control of disease among livestock.
 - e. Ringing of hogs.
 - f. Spraying crops.
2. Specifications regarding crops and livestock:
 - a. Map of farm.
 - b. Acreage of crops to be grown.
 - c. Location of these crops on the farm.
 - d. Rotation to be followed.
 - e. Winter cover crops.
 - f. Kind and quantity of seed.
 - g. Number of each class of livestock.
 - h. Breed of livestock.
 - i. Insurance on crops and livestock.
3. Participation in Government programs:
 - a. Crop adjustment.
 - b. Soil conservation.
 - c. Modification in farming system.
 - d. Home wood lot.
 - e. Wildlife preservation.
4. Specifications regarding use of crops:
 - a. Sale.
 - b. Feed on farm.
 - c. Handling of straw, fodder, manure.
 - d. Pasturing small grain.
5. Actions agreed upon in case of neglect:
 - a. Hiring persons.
 - b. Hiring machines or custom work.
 - c. Buying materials.

VI. RESPONSIBILITIES OF THE CONTRACTING PARTIES

1. Relating to performance:
 - a. Warranty that landlord has right to lease farm.
 - b. Procedure in event farm is sold.
 - c. Right of landlord to inspect, improve, and repair.
 - d. Agreement regarding subletting of farm.
 - e. Continuous occupancy throughout the lease period.
 - f. Agreement regarding off-farm work.
 - g. Yielding possession at end of lease period.
 - h. Working for landlord.
 - i. Assignment of rights covered in lease.
2. Relating to joint property:
 - a. Appraisals at beginning of lease.
 - b. Purchases and sales with and without consultation.
 - c. Keeping farm records.
 - d. Furnishing vouchers and receipts.
 - e. Handling joint or undivided funds.

VI. RESPONSIBILITIES OF THE CONTRACTING PARTIES—Continued

3. Relating to settlement at termination of lease:
 - a. Appraisal of joint property.
 - b. Method of dividing joint property.
 - c. Acreages plowed, seeded, or planted to crops:
 - (1) At beginning of lease.
 - (2) Compensation for excess at end of lease.
 - (3) Payment for deficiency at end of lease.
 - d. Payment of outstanding debts of joint responsibility.

VII. OPERATING CAPITAL AND EXPENSES

1. Respective contributions to operating capital:
 - a. Machinery and equipment.
 - b. Special tools and machines.
 - c. Work stock and power.
 - d. Productive livestock.
2. Respective contributions to labor and operating expenses:
 - a. Regular labor.
 - b. Special labor.
 - c. Machine hire or custom work.
 - d. Packing and processing charges.
 - e. Feed costs, veterinary charges, breeding fees, and other livestock expenses.
 - f. Seeds.
 - g. Fertilizer and lime.
 - h. Spray and dusting materials.
 - i. Fuel and oil for tractors, trucks, and power equipment.
 - j. Electricity for farm use.
3. Credit for operating expenses:
 - a. Furnished by landlord.
 - b. Furnished by tenant.
 - c. Furnished by bank, PCA, FSA, or others.
4. Special facilities to increase production:
 - a. Additional and temporary fencing.
 - b. Additional and temporary buildings.
 - c. Special types of seed.
 - d. Development of new pastures.
 - e. Development of water supply.

VIII. GENERAL PROVISIONS

1. Settling differences:
 - a. Arbitration.
 - b. Court action.
2. Declarations pertaining to partnership status:
 - a. Disavowals.
 - b. Admissions.
 - c. Qualifications.

SAMPLE LEASE FORMS

The *Flexible Livestock-Share Lease* is included in this bulletin to indicate the types of provisions and specific wording that may be used by a landlord and tenant in developing their lease. Some available printed lease forms, such as this one, are well adapted to many situations. A landlord and tenant who have found a form that fits their needs have only to fill in the items. But if none of these forms seem to suit the individual situation, it may be best for the contracting parties to work out one of their own. The following questions may help to guide this process:

1. Are you familiar with the check list beginning on page 33, and have you checked the most important items?
2. Are you familiar with the principles discussed in those parts of the bulletin that are particularly applicable to the leasing problems you face?
3. Have you studied the *Flexible Livestock-Share Lease* and other lease blanks as examples of the form your lease should take and the way in which provisions should be stated?
4. Have you selected the provisions that best fit your particular situation—rephrasing the clauses where necessary?

If you have done these things, you are now ready to write out in full your leasing agreement.

Copies of three lease forms are available free of charge from your county agent or the United States Department of Agriculture, Washington 25, D. C. (1) The *Flexible Livestock-Share Lease* can be used satisfactorily in renting many farms on a livestock-share basis but it is not suitable for cash- or crop-share renting. (2) The *Flexible Farm Lease* is applicable to typical cash- and crop-share-renting situations. (3) The *Flexible Sharecropping Agreement* is adaptable to sharecropping cotton and tobacco in the South.

Form Agri-2

UNITED STATES DEPARTMENT OF AGRICULTURE

FLEXIBLE LIVESTOCK-SHARE LEASE

THIS LEASE is entered into this _____ day of _____, 19____, between _____, landlord, of _____ and _____, tenant, of _____.
(Address)

1. DESCRIPTION OF PROPERTY.—The landlord hereby leases to the tenant, to occupy and use for agricultural and related purposes, the following-described property, located in _____ County, State of _____:

and consisting of _____ acres, more or less, together with all buildings and improvements thereon and all rights thereto appertaining. (All this property together is hereinafter referred to as the "farm.") The landlord warrants that he is the owner of the farm, has the right to give the tenant possession under this lease and will, so long as this lease remains in effect, warrant and defend the tenant's possession against any and all persons whomsoever.

2. TERM OF LEASE.—The term of this lease shall be _____ year_____, from _____, 19_____, to _____, 19_____, and this lease shall continue in effect from year to year thereafter until written notice of termination is given by either party to the other on or before the _____ day of _____ (Month) before expiration of this lease or any renewal.

3. OWNERSHIP OF LIVESTOCK AND FARM OPERATION:

(a) *Ownership of livestock.*—The breed or kind and number of livestock to be kept on the farm under this lease and the arrangements as to ownership shall be as indicated below:

Approximate number to be kept on farm	Breed or kind of livestock to be kept on farm	Ownership or shares. Insert "all," "none," or share of each party in proper column below	
		Landlord	Tenant
.....
.....
.....
.....
.....

(b) *Farm operation.*—(1) The tenant agrees that, within practicable limits, he will feed to livestock on the farm not less than _____ percent of all hay, forage and feedable grain crops produced on the farm and will devote not more than _____ percent of all cultivated land to soil-depleting crops; not less than _____ percent to soil-improving crops; and not less than _____ percent of all productive land in the farm to suitable pasture. (The system of farming and crop acreages may be agreed upon from year to year by the two parties and may be outlined upon an "Annual Supplement" form which is available for that purpose.)

(2) The tenant will contribute management and labor except as specified in the table below. All work stock, tractors, and operating equipment, and all operating expenses will be contributed, paid, or shared as indicated in the table below:

Operating equipment and expense	Contributed by—		Operating equipment and expense	Contributed by—	
	Landlord	Tenant		Landlord	Tenant
Work stock.....	Lime.....
Tractors.....	Fertilizer.....
Ordinary operating equipment.....	Marketing expense.....
Hired farm labor.....	Other items.....
Purchased feed.....
Seed.....
Veterinary fees, serums, etc.....

(3) An accurate financial record of the farm business will be kept by the tenant or as may be otherwise agreed, which shall include a careful annual inventory of the livestock, equipment and farm supplies, and a complete record of purchases and sales of the farm business, and both parties shall have access to such record at all times. This record will be used by the landlord and tenant as a basis for the division of income and proceeds.

(4) The tenant will operate the farm in a careful and efficient manner following in general the management and husbandry methods recognized as best in the locality, and will perform plowing, seeding, cultivating, and harvesting at the proper time and in the proper manner. This will include the following specific provisions (if any):

.....
.....
.....

4. RENT AND DIVISION OF FARM INCOME, AND FINAL SETTLEMENT:

(a) *Rent and Division of Farm Income:*

(1) As rent for said farm and in consideration of the respective contributions of the two parties, as set forth in this lease, all income or receipts from the sale of livestock, livestock products, crops, market vegetables and fruits and other income from operation of the farm will be distributed or divided between the two parties as specified in the table below.

Income or receipts from—	Landlord's share	Tenant's share	Income or receipts from—	Landlord's share	Tenant's share
Sale of livestock.....					
Sale of.....					
Sale of livestock products.....					
Sale of.....			Ownership of livestock increase.....		

(2) All rents, incomes and receipts specified herein shall be paid, distributed, or divided at the time and place specified below:

(3) For family use and board for hired laborers only, the tenant may use such potatoes, garden truck, fruit, milk, and eggs as the farm affords; may keep poultry not to exceed _____ head; and may use slaughtered livestock not to exceed _____ pounds live weight per year.

(b) *Final settlement at termination of lease:*

(1) At the termination of this lease, property separately owned by either party will be taken or disposed of at will by the owner thereof. All seed, feed, and supplies owned in common will be divided upon the basis of the respective interests, and the tenant will leave the landlord's share on the premises.

(2) Livestock held in equal common ownership will be divided or disposed of in any of the following ways which may be agreed upon:

Either party may sell his interests to the other at such price and upon such terms as may be agreed, or

If both parties desire to own the entire herd, one party (to be determined by agreement or lot) will place a value upon the entire herd and the other party shall have the option of buying or selling at one-half the value placed upon the entire herd, or

The tenant may divide the livestock into two groups as nearly equal in value as possible and the landlord will take his choice of the two.

Should the parties be unable to agree upon a satisfactory division or disposition, the livestock will be sold and the proceeds from such sale will be divided equally.

(3) Livestock held in common but not equal ownership, or the proceeds therefrom, will be divided or disposed of upon the basis of the respective interests of the two parties.

(4) If, when the tenant vacates the farm, the total acreages of prepared, seeded, or cultivated land on the farm are greater than at the beginning of his tenancy, he will be compensated by the landlord on the basis of the value of such excess acreages to the landlord or to an incoming tenant. If such total acreages are less than at the beginning of his tenancy, the tenant will compensate the landlord on the basis of the value of such deficiency, provided, the deficiency is not due to drought, flood, or other causes beyond the control of the tenant. The type of land treatment or crops, the acreages at the beginning of this tenancy and the basis of compensation agreed upon are as indicated in the following table:

Land treatment or crop	Acreage at delivery of possession to tenant	Basis of compensation by either party
Plowed land.....	acres.....	\$..... per acre.
Seeded to.....	acres.....	\$..... per acre.
.....	acres.....	\$..... per acre.

(5) **Disposition of growing crops.**—If, at the termination of this lease for any reason, there are growing crops on the farm in which the tenant has an interest, the landlord will compensate the tenant for his interest upon such basis as may be mutually agreed or determined by arbitration or will complete the care, harvesting, and sale of such crops, deduct the expenses thereof from the returns, and will credit or pay to the tenant his proportionate share of the proceeds.

5. MAINTENANCE, REPAIRS, AND IMPROVEMENTS.

Maintenance and Repairs:

(a) The landlord will place the farm in a habitable and tenantable condition at the beginning of the tenancy, and the tenant will maintain the farm during his tenancy in as good condition and repair as at the beginning, normal wear and depreciation from causes beyond the tenant's control excepted. The following repairs and improvements will be made by the landlord and completed by the date indicated after each item:

(b) The landlord will furnish materials for normal maintenance and repairs made by the tenant, and the tenant will haul such materials and will perform or furnish necessary labor for normal maintenance and repairs except that necessary skilled labor which the tenant is unable to perform satisfactorily will be furnished by the landlord.

(c) *Authorization.*—The tenant may, without further authorization from the landlord, purchase materials for necessary repairs or improvements in a total amount not exceeding _____ within each year and will be credited or compensated by the landlord for the amount of expenditures so made but not in excess of the amount specified. Specific materials agreed upon under this provision are the following (if any): _____

(d) If the dwelling or other necessary building shall be destroyed or damaged by fire, flood, or other cause beyond the control of the tenant, the landlord will promptly replace or repair such building.

New Improvements:

(e) *Improvements of a permanent nature which the landlord customarily provides.*—The making of new improvements which become a permanent part of the property is customarily and properly the responsibility of the landlord. If the tenant shall, at his own expense and with authorization from the landlord, make any permanent improvement such as new buildings, major additions or repairs to the buildings, new fences, wells, water or sewage systems, permanent household fixtures, ponds or lakes, drainage or terrace systems, or other improvements of this type, the tenant will be compensated by the landlord for the cost of such improvement, including the value of the tenant's own labor.

(f) *Improvements which the landlord and tenant customarily make jointly.*—The making of improvements the benefits of which are realizable jointly over a period of several years is customarily and properly the responsibility of the two parties jointly. If the tenant shall, at his own expense and with authorization from the landlord, make any improvement of this nature such as the planting of orchards or vineyards or farm woodlots, the establishment of permanent meadows or pastures, the application of lime or phosphate or slag or other improvement of this type, the tenant will be compensated by the landlord for the landlord's customary share of the cost of such improvement. If, after the tenant has made any improvement in accordance with the foregoing provisions of this section, this lease shall be terminated or shall expire before the tenant has received compensating benefit for his portion of the cost of any such improvement made by him, the tenant will be credited or compensated by the landlord for the tenant's share of the unrealized portion of the value of such improvement.

(g) *Minor improvements.*—Minor improvements of a temporary or removable nature which do not mar the condition or appearance of the farm may be made by the tenant at his own expense and upon his own responsibility. The tenant may, at any time this lease is still in effect, remove any minor improvement which he has made even though the improvement has become legally a fixture, provided he leaves that portion of the farm from which such improvement is removed in as good condition as it was prior to the making of such improvement, and the tenant will not receive compensation for improvements removed.

(h) *Soil-conserving and soil-improving practices.*—If the tenant shall, with the

knowledge and consent of the landlord, carry out any soil-conserving or soil-improving practice at his own expense, other than those specified in (e) or (f) above, and if this lease shall be terminated or shall expire before compensating benefit of such improvement made by the tenant has been received by him, the tenant will be credited or compensated by the landlord for the unrealized value of such improvement.

6. GOVERNMENTAL AGRICULTURAL PROGRAMS.

If the parties participate, with respect to the farm, in any applicable agricultural conservation, soil conservation, or other governmental program designed to aid agriculture, modifications in this lease may be agreed upon from time to time which are necessary to conform with such program. It is understood that any cash or other benefits received for participation in any such program must be divided between the two parties as provided in such program. Any allotment made to or properly belonging to the land covered by this lease shall be available to the tenant and if in any such program the land covered by this lease is treated as part of a larger tract the tenant shall receive his proportionate share of acreage allotments, payments, or other benefits and in like manner shall contribute his proportionate part in fulfilling the requirements of such program.

7. THE TENANT AGREES THAT:

- (a) He will not assign this lease or sublet any portion of the farm without the consent of the landlord.
- (b) He will permit the landlord or his agent to enter the farm at any reasonable time for repairs, improvements, and inspection.
- (c) He will not commit waste on or damage to the farm or permit others to do so.
- (d) He will yield possession of the farm at the end of the term of this lease or any renewal or extension thereof.

8. IT IS AGREED THAT:

- (a) In the event of the death of either party this lease may be terminated by written notice given by the party desiring to terminate the lease to the other at least _____ months before the end of the crop year.
- (b) The tenant may use dead and unmarketable timber and other timber designated by the landlord for his own fuel, but the tenant shall cut no growing trees of value for fuel or other use and shall market no timber from the farm without the consent of the landlord.
- (c) Willful neglect, failure, or refusal by either party to carry out any material provision of this lease shall give the other party the power to terminate the lease, in addition to the right to compensation for damages suffered by reason of such breach. Such termination shall become effective thirty (30) days after written notice of termination specifying the delinquency has been served on the delinquent party, unless during such thirty (30) day period the delinquent party has made up the delinquency. The landlord shall have the benefit of any summary proceedings provided by law for evicting the tenant upon termination under this paragraph, or at the end of the term.

(d) *Arbitration.*—Any differences between the parties under this lease, including the determination of valuations and matters herein left to subsequent agreement, shall be submitted for arbitration by a committee of three disinterested persons, one selected by each party hereto and the third by the two thus selected; and the decision of such arbitration committee shall be accepted by both parties.

(e) This lease shall not be deemed to give rise to a partnership relation, and neither party shall have authority to obligate the other without written consent.

9. ADDITIONAL AGREEMENTS (such as option to purchase farm, water rights, etc.—If space is insufficient, write the desired provision on a strip of paper and paste in this space) _____

IN WITNESS WHEREOF, the parties have signed this lease on the date first above written.

Witnesses as to both signatures:

[SEAL]

(Landlord)

[SEAL]

[SEAL]

(Tenant)

ACKNOWLEDGMENT (proper form to be inserted):

